

**The Centre for Inclusive Education**

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# **Inquiry into Suspension, Exclusion and Expulsion Processes in South Australian Government Schools**

## **Final Report**

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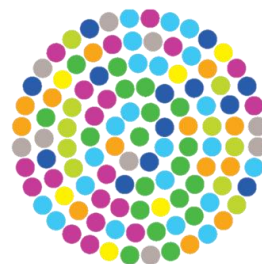
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26 October 2020

The Hon John Gardner MP  
Minister for Education  
GPO Box 1563  
Adelaide, SA 5001



Dear Minister Gardner

I am pleased to submit to you the final report of the *Inquiry into Suspension, Exclusion and Expulsion Processes in South Australian Government Schools*.

This report presents the evidence, findings and recommendations derived from extensive consultation with a wide range of stakeholders across South Australia, and analysis of data provided by the South Australian Department for Education regarding the use of exclusionary discipline in South Australian government schools.

We found that SA government schools are, for the most part, safe and orderly. The vast majority of students each year are not sent home, suspended or excluded. Of the 177,246 students enrolled in 2019, only 3.3% of students were sent home, 5.8% were suspended, and 0.5% were excluded.

Our task, however, was to investigate how these measures are being used and whether they affect some student groups more than others. In responding to the Terms of Reference for this Inquiry, we found a range of issues that are not unique to SA government schools but which the South Australian government can and should take urgent steps to address.

By tackling these complex issues with intelligently designed evidence-based solutions, South Australia can draw from international best practice and lead local education reform. We heard many times when visiting your state that “South Australia is a small state,” but we saw that small can be nimble. Small can be innovative. Being small can be an advantage.

The findings and recommendations presented herein seek to support South Australia to achieve its ambition to provide a world-class public education system for the children and young people in your state. We commend you for commissioning this independent Inquiry and wish you well.

Yours sincerely

**Professor Linda J. Graham**  
*Inquiry Chair & Director*  
The Centre for Inclusive Education (C4IE)

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## ACKNOWLEDGEMENT OF COUNTRY

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The Inquiry team acknowledges the Traditional Owners of the lands and waters throughout South Australia. In doing so, we pay respect to Elders and families past, present and emerging, and pay reverence to Aboriginal children and young people as they emerge as future leaders.

The Inquiry team also acknowledge the Jaggera and Turrbal people, the Traditional Owners of the lands where QUT now stands, and the place where this report was written. The Inquiry team recognises that these lands have always been places of teaching and learning, and that they were never ceded. We pay respect to their Elders—past, present and emerging—and acknowledge the important role Aboriginal and Torres Strait Islander people continue to play within the QUT community.

**Note regarding language:** in most places, the Inquiry uses the term ‘Aboriginal’ to refer to people who identify as Aboriginal, Torres Strait Islander, or both Aboriginal and Torres Strait Islander. Through consultation with Aboriginal communities, the Inquiry was advised that this term is preferred by Aboriginal South Australians. In some places, when referring to research conducted in other Australian states and territories, we use the term Indigenous.

# 1 EXECUTIVE SUMMARY

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In September 2019, the Hon John Gardner, Minister for Education, established an independent inquiry into whether the South Australian Department for Education is complying with international conventions, legislative requirements, and governmental and departmental policies and procedures in its use of suspensions, exclusions and expulsions. The Inquiry Terms of Reference were established in September 2019.

## 1.1 INQUIRY TERMS OF REFERENCE

Taking note of the Report of the Select Committee on Access to the South Australian Education System for Students with a Disability, the reviewer is to consider whether the department is complying with international conventions, legislative requirements, and governmental and departmental policies and procedures in its use of suspensions, exclusions and expulsions including:

- Ensuring that relevant parties are notified a decision has been taken to suspend, exclude or expel a student
- Ensuring a conference is conducted with the affected student and other required participants
- Ensuring the suspended or excluded student is provided with other educational and/or development opportunities to support the behavioural and learning goals
- Providing a fair and effective appeals process
- Keeping accurate and transparent records of the number of children suspended, excluded, or expelled from school; the nature of and reason for their suspension, exclusion, or expulsion; and their modified or other enrolment or different options (including hours of contact, curriculum offerings etc.)

The review should examine:

- The use of suspensions for attracting funding and other supports for students.
- The prevalence and use of formal and informal suspensions, exclusions and expulsions
- Alignment of policy and practice with evidence based best practice
- The adequacy of current complaint management arrangements in respect of students who are formally or informally suspended, excluded or expelled including:
  - Whether complaints are being managed appropriately within schools and within the department
  - Whether the current arrangements with the South Australian Ombudsman are satisfactory
  - Whether the jurisdiction and powers of the Ombudsman should be expanded
  - Whether the Ombudsman should be able to make policy recommendations
  - Whether there should be a specific education ombudsman, and if so, what their role could be



- The effectiveness of behaviour support policies and student support services. The review must make specific reference to the following:
  - Whether vulnerable or at-risk students are over-represented in suspension, exclusion and expulsion numbers and whether the department is effectively addressing any such issues
  - Whether the data collected by the department regarding suspensions, exclusions and expulsions is sufficient to inform departmental policy-making and programs
  - Whether the department is monitoring and preventing instances of suspensions, exclusions and expulsions which occur outside the formal processes.

The review should consider the following additional related issue:

- The number of children of compulsory school age who have been disengaged from education, including through modified or other enrolment or different options, including home schooling. This should specifically consider the use of 'take homes', part-time programs, exemptions, home-schooling and Open Access.

The review will include recommendations about systemic arrangements and processes that would be of benefit to our schools and teachers, families and students, for consideration by the South Australian government.

## 1.2 PROCESS OF THE INQUIRY

In December 2019, Professor Linda Graham (PhD, M.Ed, B.A.), Director of The Centre for Inclusive Education ([C4IE](#)) at Queensland University Technology (QUT) was appointed to conduct the Inquiry.

The Inquiry team included (in order of appointment): Mr Tony McCarthy (LLB, LLM), Associate Professor Shiralee Poed (PhD, M.Ed, B. Ed, Dip Teach Sec.), and Dr Callula Killingly (PhD, B.Behav.Sci.(Hons), B.A.). Ms Haley Tancredi, C4IE Coordinator, provided support to Professor Graham and contributed to writing the literature review and editing the report.

To address the terms of reference, the team developed a multifaceted and integrated methodology, which involved:

- Review of the SA Department for Education's framework of policies, procedures and practices in relation to the use of suspensions, exclusions and expulsions, including comparisons to interstate and international frameworks.
- Purposive audit of twenty (20) government school websites to identify whether the SA Ombudsman's 2016 recommendations in relation to complaints processing have been effectively implemented.
- Review of scholarly literature on the use of and alternatives to suspensions, exclusions and expulsions, including comparisons to interstate and international literature and practice.
- Conducting individual and focus group interviews with 104 individuals, including parents/carers, students, teachers, principals, government, and non-government organisations and interested members of the community.
- Submissions to an online survey through the YourSAy consultation platform from 291 respondents, including targeted data collection from:

- current and past students of SA government schools who have experienced take homes, suspensions, exclusions, or expulsion
  - parents/carers of students attending SA government schools
  - teachers, principals, and other school staff
  - child/young person advocates and advocacy groups
  - parent and professional associations
  - representatives from government and non-government agencies
  - interested members of the public.
- Accepting submissions via email and mail (hard copy).
  - Descriptive and statistical analysis of data provided by the SA Department for Education in relation to the use of take homes, suspensions, exclusions, and expulsions, as well as enrolments in segregated settings, alternative education options, distance learning, and school category.

When in South Australia, Professor Graham and Mr McCarthy were hosted by the Child Development Council (CDC) of South Australia which provided office space while members of the team were in Adelaide, and support in scheduling stakeholders and liaising with Department for Education personnel. The CDC's Senior Statistician, Mr Bradley McDonald, was responsible for collecting data from the SA Department for Education and acting as the liaison between SA Department for Education Data Unit staff and the research team to uphold the integrity and independence of the Inquiry.

### 1.2.1 Work undertaken

*Phase 1 of the Inquiry* commenced 16<sup>th</sup> of December 2019 with a visit to Adelaide by Professor Linda Graham and Mr Tony McCarthy. This initial discovery phase involved:

- Meetings with Child Development Council liaison staff and Senior Statistician.
- Initial discussions with key stakeholders (relevant department personnel, principals' associations, teachers' union, parent/disability advocacy groups, child protection personnel, and the Aboriginal and Torres Strait Islander Children's Commissioner) to develop a rich understanding of the South Australian context and background to the Inquiry.
- Focus groups with key stakeholders (for example, but not limited to, principals of schools in high-suspending regions/schools; Indigenous parents, students and support officers; parents of students with disability; and groups indicated in data but not represented in submissions received).
- Visits to schools in high-suspending regions and discussion with School Leadership Teams to understand on ground enactment and fidelity of existing Department procedures and policy; student focus groups.
- Review of the (i) Department of Education suspension, expulsions, and exclusions procedure materials; (ii) relevant previous Inquiry/Review/Royal Commission/Ombudsman reports.

- Familiarisation with suspension and exclusion data sources, types, coding and availability.
- Review of relevant or associated SA policy reforms and initiatives; establishment of comparative timeline.
- Development of the submissions survey and approval of YourSAy consultations process.

*Phase 2 of the Inquiry* commenced on the 27<sup>th</sup> of March 2020 with the close of the submissions survey. This analysis phase involved:

- Analysis of submissions received, identification of patterns and representation gaps.
- Disaggregated data analysis to determine patterns relating to take homes, suspensions, repeat suspensions, exclusions (e.g., age/grade, gender, socio-geographic (inc region/school level, disability/NCCD status, Indigenous status, living in care, length of and reason for suspension, type of expulsion), as well as placement in part-time programs, Flexible Learning Options, OpenAccess, exemptions, and segregated settings.
- Benchmarking SA lengths of, grounds for and rates of take home, suspension and exclusion rates with publicly available data from other states.
- Integrative data analysis and pattern matching.

*Phase 3 of the Inquiry* commenced on the 16<sup>th</sup> of June 2020 and focused on developing a draft report for the Minister, the Hon John Gardner and Presiding Chair of the Child Development Council, Dr Anne Glover, together with a high-level briefing of the Inquiry findings. This was followed in early August through to October 2020 by finalisation of data analyses and the development of a final report, including a findings and recommendations chapter.

The recommendations were developed through a process of considering the findings of the report and a second consultation process that included:

- Follow up interviews with parents or carers of students in primary and secondary school who have received repeat suspensions.
- Follow up interviews with key SA Department for Education personnel with responsibility for policy development, quality assurance and accountability.
- Follow up interviews with relevant other stakeholders in relation to themes and patterns emerging from the Phase 2 analysis.

The South Australian context, including previous inquiries and reforms, is discussed in Chapter 2. Relevant international conventions, Australian and South Australian legislation, policy, procedures, and programs are outlined in Chapter 2. Findings from the review of empirical literature detailing best practice are presented in Chapter 4, stakeholder perspectives are discussed in Chapter 5, and analyses of data provided by the SA Department for Education are provided in Chapters 6-10. These findings are discussed in Chapter 11 and recommendations provided.

Section 1.3 summarises those Inquiry findings and groups recommendations into (1) actions for the South Australian government, and (2) actions for the SA Department for Education.

### 1.3 SUMMARY OF FINDINGS AND RECOMMENDATIONS

The following section summarises the findings and recommendations that are discussed in more detail in Chapter 11 of this report. Like much of the report, both Chapter 11 and this section are structured to align with the Inquiry Terms of Reference. However, as the Terms of Reference are broad, they often intersect and hence, the findings and recommendations do as well. Therefore, while we provide recommendations after each Term of Reference, we also note when a recommendation relates to multiple findings or where one recommendation complements another. Furthermore, we have grouped the recommendations, where relevant, into (i) actions for the South Australian government and (ii) actions for the SA Department for Education. We recommend that Chapter 11 is read in full as this will better enable stakeholders to make the connection between the findings and the recommendations. Chapter 11 also includes specific section numbers to assist readers to identify the relevant analyses that informed the development of the findings and recommendations of this Inquiry.

#### Term of Reference:

- *Ensuring that relevant parties are notified a decision has been taken to [take home], suspend, exclude or expel a student.*

**Finding 1.1:** While evidence received through this Inquiry indicates general compliance with notification requirements under the SEE Procedures, there remain instances where notification requirements are not met. In some instances, parents and carers are not notified in a timely manner or are not provided with detailed information explaining the circumstances leading to the exclusionary discipline decision. We note that the SEE Procedures do not currently scaffold best practice by stipulating a timeframe for providing notice or specifying the type of information that should be provided in the notice.

RECOMMENDATIONS FOR THE SA DEPARTMENT FOR EDUCATION	FINDINGS
<b>RECOMMENDATION 1</b> That the SA Department for Education amend the SEE Procedures to make explicit: (a) That all reasonable efforts be made to ensure a student and their parent or carer are <b>notified</b> of an exclusionary discipline decision the same day a decision is made. (b) That in addition to providing notice of the decision to issue an exclusionary discipline response, the <b>school must also provide</b> to the student and their parent or carer: (i) an explanation of any information that the school has about the events leading up to the decision, (ii) the ground and reasons for the response, (iii) what has been done to support the student, (iv) why no less restrictive disciplinary response is appropriate, (v) their rights regarding complaints and appeal, and (vi) the processes to follow in order to make a complaint or appeal a decision.	1.1

### Terms of Reference:

- *Ensuring a conference is conducted with the affected student and other required participants.*

While the SEE Procedures require conferences to be conducted with students, schools continue to use practices that do not support the student's or their parent or carer's meaningful inclusion in decision-making either before a decision is made or afterwards during conferencing procedures. The *Education and Children's Services Act 2019 (SA)*, *Education and Children's Services Regulation 2020 (SA)*, and SA Department for Education policy and procedures do not provide sufficiently explicit guidance regarding obligations to support students' meaningful participation in decision-making, or an effective framework for supporting such participation. For example, we heard that:

- decisions to send home or suspend a student are at times made without first consulting with the student and allowing them to put forward their side of the story.
- decisions to exclude a student are at times made unilaterally before the pre-exclusion conferencing process occurs.
- students, as well as parents and carers, experience significant power imbalance in pre-exclusion conferencing processes.
- students are not routinely involved in decision-making about educative, behavioural and social and emotional goals following a suspension, exclusion or expulsion.

**Finding 2.2:** While re-entry meetings are generally conducted, evidence suggests that re-entry processes are enacted in ways that do not effectively support behavioural change or a student's reintegration into an inclusive school community. We did hear of some schools using effective strategies to support a student's return to school, such as restorative justice conferencing, however, the implementation of such practices is not supported at a system-wide level, and no guidance is provided in SA Department for Education policies or procedures around the value of such practices or strategies to support their implementation.

**Finding 2.3:** There remain instances where relevant education support staff are not involved in exclusionary discipline decisions, limiting their ability to support the student, and impeding the effectiveness of a 'team around the child' approach. Current SEE Procedures also do not mandate consultation with specialist supports (e.g. Student Support Services or Aboriginal Education staff) before a disciplinary decision is made, despite the critical importance of engaging such expertise to inform decision-making about disciplinary actions, particularly for students with disability, Aboriginal students and students in care.

**Finding 2.4:** Students, parents and carers are unable to access policy and procedure documents relating to the use of take homes, suspensions, exclusions and expulsions, such as the SEE Procedures, as these documents are not publicly available. Information that is publicly available, such as the factsheet on 'suspension and exclusion information for parents and carers' does not include all relevant information regarding exclusionary discipline. This contravenes the Department's obligations under the FOI Act and prevents access to information

necessary for students, parents and carers to meaningfully participate in decision-making about student discipline, including knowledge of their rights and the obligations of school staff.

**Finding 2.5:** While conferences and re-entry procedures are generally conducted as required under the SA Department for Education’s SEE Procedures, there remain instances where schools fail to ensure this occurs. There are insufficient accountability mechanisms to ensure that these processes do occur, and to monitor schools’ compliance with these obligations.

RECOMMENDATIONS FOR THE SOUTH AUSTRALIAN GOVERNMENT	FINDINGS
<p><b>RECOMMENDATION 2</b></p> <p>That the South Australian government amend the <i>Education and Children’s Services Act 2019</i> (SA) to:</p> <p>(a) Explicitly require that a principal of a school must <b>consult students using accessible language</b>—in a non-prejudicial and non-interrogatory manner—to enable students to put forward their account in relation to an incident for which a disciplinary response may be considered.</p>	2.1

RECOMMENDATIONS FOR THE SA DEPARTMENT FOR EDUCATION	FINDINGS
<p><b>RECOMMENDATION 3</b></p> <p>That the SA Department for Education:</p> <p>(a) Implement explicit guidance including in the SEE Procedures regarding schools’ obligations to ensure students, and their parents and carers, are supported to <b>meaningfully participate in decision-making</b>, including by:</p> <ul style="list-style-type: none"> <li>(i) explicitly stating schools’ obligations under international human rights instruments and the <i>Disability Standards for Education 2005</i> (Cth) to support meaningful participation in decision-making <i>before</i> a decision is made.</li> <li>(ii) explicitly requiring that schools ensure reasonable adjustments are made for students with disability in accordance with the <i>Disability Standards for Education 2005</i> (Cth) and,</li> <li>(iii) explicitly requiring that a suitable representative, support person (e.g., Student Support Services and Aboriginal Education services) and/or interpreter is present during conferencing processes to support the student to meaningfully participate in decision-making and is not disadvantaged due to cultural or communication difficulties.</li> </ul> <p>(b) Establish a system-wide <b>Multi-Tiered Systems of Support (MTSS) framework</b> designed to improve students’ academic, social-emotional and behavioural outcomes and which incorporates:</p> <ul style="list-style-type: none"> <li>(i) <i>Student voice and participation</i> based on the Lundy model of participation to improve student involvement in decision-making, wellbeing, and school connectedness.</li> <li>(ii) <i>Restorative practices</i>—both as an alternative to exclusionary discipline and as a tool to support the re-integration of students following a disciplinary absence—to ensure evidence-based best practice is in place to prevent and address behavioural incidents.</li> </ul>	2.1, 2.2

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- (c) **Establish a new position** within the SA Department for Education, whereby the role-holder will oversee the development, implementation, monitoring and review of a system-wide Multi-Tiered Systems of Support (MTSS) framework to guide the work of all staff in government schools.
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**RECOMMENDATION 4**

2.3

That the SA Department for Education:

Amend the SEE Procedures to make explicit that a principal must, wherever practicable, **seek advice from specialist supports** such as Student Support Services, Aboriginal Education services, or other department or external specialist supports before making a disciplinary decision for a student with a disability, a student in care or an Aboriginal student consistent with a team around the child approach.

\* *Recommendation 4 can be coupled with Recommendation 3a(iii) to ensure that an appropriate support staff member and/or interpreter is present during exclusionary discipline conferencing processes.*

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**RECOMMENDATION 5**

2.4

That the SA Department for Education:

- (a) **Make available to the public** through its public facing website, a copy of all policy, procedures and practice guidance relating to student discipline as per requirements under the FOI Act.
- (b) **Revise the fact sheet** on 'Suspension and Exclusion Information for Parents and Carers' to:
- (i) include information on take homes,
  - (ii) change the title of the document to refer to exclusionary discipline more broadly,
  - (iii) include links to the policy and procedures to help parents and carers to locate this information, and
  - (iv) require that school leaders provide this fact sheet to parents and carers when a decision to use any form of exclusionary discipline is made.
- (c) Engage the Ombudsman SA to support the SA Department for Education's compliance with the objects of the FOI Act and discharging of its FOI responsibilities through **biennial audits** of the public availability of the Department for Education's policies and procedures.
- 

**RECOMMENDATION 6**

2.5

That the SA Department for Education:

- (a) Implement **more effective accountability mechanisms**, such as requiring student and parent sign-off that a directions conference or reconnection meeting has taken place, to:
- (i) ensure schools comply with international human rights obligations, best practice, and Commonwealth and SA legislation, policy and procedure regarding student disciplinary practices, and
  - (ii) monitor compliance with the requirement to hold a conference or meeting through the application of a documentation and central data collection process
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that is capable of both identifying and rectifying breaches of conferencing/re-entry meeting requirements.

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**Terms of Reference:**

- *Ensuring the suspended or excluded student is provided with other educational and/or developmental opportunities to support the behavioural and learning goals.*

**Finding 3.1:** The *Education and Children’s Services Act 2019 (SA)*, *Education and Children’s Services Regulations 2020 (SA)*, and the SEE Procedures do not provide a clear expectation that schools will continue to provide access to educational and/or developmental opportunities during a disciplinary absence, and consequently many students are not supported to access educational and developmental opportunities during a disciplinary absence, breaching their legislative and human right to education and potentially contributing to learning and achievement gaps, which the scholarly literature suggests will ‘snowball’ if left unaddressed over time.

**Finding 3.2:** While the SEE Procedures and Behaviour Support Policy provide a basic framework for supporting student connectedness, they do not provide sufficiently explicit guidance that emphasizes the importance of maintaining connections between the student and their school community, or requirements for schools to promote and maintain teacher-student relationships and school connectedness particularly during a disciplinary absence.

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RECOMMENDATIONS FOR THE SOUTH AUSTRALIAN GOVERNMENT	FINDINGS
<b>RECOMMENDATION 7</b> That the South Australian government amend the <i>Education and Children’s Services Act 2019 (SA)</i> to explicitly: (a) Recognise that all students’ right to <b>education continues</b> during an exclusionary period. (b) <b>Require schools to provide an educational program</b> for the duration of the exclusionary period to support students’ learning and behavioural goals during a disciplinary absence.	3.1

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RECOMMENDATIONS FOR THE SA DEPARTMENT FOR EDUCATION	FINDINGS
<b>RECOMMENDATION 8</b> That the SA Department for Education: (a) adopt evidence-based and systematic approaches <b>to enhance positive teacher-student relationships</b> and <b>school connectedness</b> , as one key element in a system-wide Multi-Tiered Systems of Support (MTSS) framework designed to improve students’ academic, social-emotional and behavioural outcomes (as per Recommendation 3b).	3.2

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- (b) Provide a **clear statement of intent** in the SEE Procedures emphasising the importance of maintaining student connectedness and make explicit the requirement that schools must make all reasonable efforts to maintain connections between the student and their school community, including teaching staff and peers, to support student connectedness during a disciplinary absence.
- 

#### Terms of Reference:

- *Providing a fair and effective appeals process*
- *The adequacy of current complaint management arrangements in respect of students who are formally or informally suspended, excluded or expelled including:*
  - Whether complaints are being managed appropriately within schools and within the department
  - Whether the current arrangements with the South Australian Ombudsman are satisfactory
  - Whether the jurisdictions and powers of the Ombudsman should be expanded
  - Whether the Ombudsman should be able to make policy recommendations
  - Whether there should be a specific education ombudsman, and if so, what their role could be.

**Finding 4.1:** The SA Department for Education’s current policy and procedure for appeals is not aligned with international human rights obligations or best practice, in that it:

- (i) does not permit appeals against take homes or suspensions.
- (ii) only permits appeals (in relation to exclusions and expulsions) on the grounds of error of fact, error of process, or inappropriate length or conditions. Appeals are not permitted when, for example, the grounds are considered unfair, or the decision itself was not an appropriate disciplinary response in the circumstances.
- (iii) does not provide students, parents and carers with access to an appeals process that is *independent, effective, accessible, transparent, safe and enforceable* as required to comply with international conventions, including the Convention on the Rights of Persons with Disability (CRPD).

**Finding 4.2:** While the SA Department for Education’s complaints management policy and procedures demonstrate a commitment to maintaining an effective, accessible, objective, fair and transparent complaints process, complaints continue to be managed at both the school and the Customer Feedback Unit level in a manner that does not effectively uphold these principles. The SA Department for Education’s complaints management processes are not aligned with international human rights obligations or best practice, in that:

- (i) Complaints processes are not independent, and there is a lack of confidence in the fairness and safety of current complaints management processes.

- (ii) Complaints are managed in a way that does not always promote a forward-focused, collaborative and conciliatory approach to dispute resolution.
- (iii) There is limited available support to students, parents and carers to navigate complaints processes, and to facilitate their meaningful participation in complaints processes.
- (iv) Strict implementation of the three-tiered complaints management process results in some complaints being referred back to schools despite warranting independent management at a higher level.

**Finding 4.3:** Despite recommendations in the SA Ombudsman’s 2016 audit report, there remain significant concerns regarding complaints management processes within the SA Department for Education. Similarly, despite the broad range of recommendations intended to drive systems improvements following several recent inquiries including the Cossey Report (2011), the Nyland Report (2016), and the Select Committee Report (2017), there continue to be significant concerns about the inclusion of all students and use of disciplinary practices within SA Department for Education schools, indicating that there are insufficient monitoring and oversight mechanisms to support continuous improvement in the SA Department for Education’s implementation of best practice.

**Finding 4.4:** Many parents and carers are not aware of options to take a complaint beyond a school or the CFU. Approximately one third of respondents to the submissions survey did not know of the options listed. Furthermore, some government schools still have not implemented recommendations from the SA Ombudsman’s 2016 audit of the Department for Education and Child Development’s education related complaint handling practices, including that every government school make available on its website the department’s complaints brochure.

**Finding 4.5:** While improvements have been made to the SA Department for Education’s complaints data management systems, the SA Department for Education does not have effective systems for centralised recording, reporting and analysis of school-based (Level 1) complaints data. Serious problems exist at the school-level which are not being identified and addressed, especially in relation to the provision of support and adjustments to students with disability, because parents are fearful of the consequences for their child and have no avenue for recourse. Like appeals data, level 1 complaints data is not centrally collected and there is no oversight to ensure that school staff are implementing best practice in response to concerns raised.

RECOMMENDATIONS FOR THE SOUTH AUSTRALIAN GOVERNMENT	FINDINGS
<p><b>RECOMMENDATION 9</b></p> <p>That the South Australian government draw on international best practice by <b>establishing a new independent statutory body</b>, the Education Ombudsman (or Education Commission), with the following functions and responsibilities:</p> <p>(a) Management of an independent, effective, accessible, transparent, safe and enforceable <b>adjudication and appeals process</b> that:</p> <p>(i) establishes an <i>independent panel</i>, constituted by persons with relevant expertise and knowledge regarding inclusive education and school discipline, and at least</p>	<p>4.1, 4.2</p>

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- one person with relevant expertise and knowledge working with at-risk groups including students with disability, Aboriginal students and students in care.
- (ii) provides functions to the *independent panel* to:
    1. hear appeals against exclusionary discipline decisions on grounds like those specified in 9(a)(iv) below.
    2. adjudicate complaints that remain unresolved through mediation under the statutory body's complaints jurisdiction (see 9(b) below).
  - (iii) includes necessary powers to investigate complaints and appeals including power to:
    1. obtain information held by the SA Department for Education.
    2. exercise powers of a Royal Commission, including power to summons any person to attend, to provide any document and to provide evidence on oath or affirmation.
    3. stay (or suspend) a decision pending the resolution of a complaint or appeal.
  - (iv) allows students, parents and carers to appeal any exclusionary discipline decision made by an SA Department for Education site on any of the following grounds:
    1. error of fact.
    2. error of process.
    3. inappropriate length or conditions.
    4. insufficient evidence of prior interventions (such as reasonable adjustments) to respond to the behaviour and support the student's inclusion.
    5. insufficient evidence of use of evidence-based educative disciplinary options.
    6. the grounds on which the exclusionary disciplinary decision was made is considered unfair.
  - (v) provides *free independent dispute resolution processes*, such as mediation, to run alongside applications to appeal an exclusionary discipline decision to support early resolution of issues subject to the appeal application, or to resolve complaints raised to the independent body.
  - (vi) ensures that any decision made by the panel is legally binding and enforceable.
- (b) Management of an independent, effective, accessible, transparent, safe and enforceable **complaints process** ('complaints jurisdiction') that:
- (i) ensures the dissemination of accessible information to students, parents and carers regarding their complaint and appeal rights, in collaboration with the SA Department for Education,
  - (ii) allows students, parents and carers to lodge complaints to the independent body, rather than the SA Department for Education Customer Feedback Unit, if the issue is unable to be resolved at the school level.
  - (iii) allows students, parents and carers to lodge complaints to the independent body directly *without* first raising the issue at the local school level, for example where there have been instances of gatekeeping practices, informal exclusionary discipline, or misuse of student support funding.
  - (iv) provides free independent dispute resolution processes, such as mediation, to attempt to resolve all complaints raised to the independent body.
  - (v) ensures that any agreements reached through mediation of complaints is legally binding and enforceable.
- (c) Maintaining an **integrated electronic data management system** for recording, reporting and analysis of data relating to appeals and complaints to the Education Ombudsman which should:
- (i) be used to support the identification of systemic trends and inform the discharge of oversight and monitoring functions, and
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- (ii) be regularly shared with the SA Department for Education to support the SA Department for Education's implementation of service delivery improvements.

\* See also Recommendations 10 and 13.

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## RECOMMENDATION 10

4.3

That the South Australian government add to the responsibilities of the recommended new independent statutory body (see also Recommendation 10), the Education Ombudsman (or Education Commission), **broad oversight and monitoring responsibilities**, which should include:

- (a) The Education Ombudsman to conduct an audit every two years (commencing 2022) to monitor the SA Department for Education's compliance with:
    - (i) the *Education and Children's Services Act 2019* (SA), and any other relevant Commonwealth or state legislation including the *Disability Discrimination Act 1992* (Cth) and the *Disability Standards for Education 2015* (Cth); and
    - (ii) SA Department for Education policy and procedures.
  - (b) The SA Department for Education must ensure that the Education Ombudsman is provided with such information as they may require for the purpose of audit.
  - (c) A report with recommendations following an audit must be presented to the Attorney-General in the year the audit is conducted.
  - (d) The Attorney-General must, after receipt of an audit report, cause copies of the report to be laid before each House of Parliament.
  - (e) The Education Ombudsman's audit must have regard to relevant international human rights obligations and best practice standards.
  - (f) The Education Ombudsman's audit should consider:
    - (i) compliance with requirements to notify relevant parties of decisions regarding exclusionary discipline.
    - (ii) compliance with conferencing and re-entry procedures.
    - (iii) ensuring decision-making about exclusionary discipline is procedurally fair and supports the meaningful participation of all relevant parties, including the student.
    - (iv) provision of educational and developmental opportunities during a disciplinary absence.
    - (v) complaints management processes within SA Department for Education school, including:
      1. whether existing policy, procedure and practice aligns with best practice standards including the Australian/New Zealand Standard Guidelines for complaint management in organisations.
      2. the extent to which sites have in place accessible information for the public to understand their rights to complain, the complaints process, and what might happen if they complain.
      3. the extent to which complainants are supported to make complaints and navigate the complaints process.
      4. the extent to which complaints management processes support the meaningful participation of students, where appropriate.
      5. the quality and consistency of data recording and reporting of complaints data.
      6. the existence and quality of processes for regular analysis of complaints data to support the identification of system trends and service delivery improvements.
    - (vi) the existence and quality of processes for regular analysis of complaints data to support the identification of system trends and service delivery improvements.
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- (vii) The effectiveness of accountability mechanisms for reducing and eliminating the over-representation of at-risk students in exclusionary discipline practices, implementation of behaviour support policies and procedures, and provision of reasonable adjustments and appropriately targeted evidence-based support to students with disability (see Recommendation 16).

\* See also Recommendation 14.

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**RECOMMENDATION 11**

4.4

That the South Australian government:

Fund an **independent advice and information service for students, parents and carers** to obtain information about their rights and support to navigate complaints and appeals processes. In some instances, this service may also provide advocacy support to students, parents and carers. This service could be provided through funding a panel of non-government organisations or an existing independent statutory body.

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**RECOMMENDATIONS FOR THE SA DEPARTMENT FOR EDUCATION**

**FINDINGS**

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**RECOMMENDATION 12**

4.4, 4.5

That the SA Department for Education:

- (a) Work with each of the regions through the Education Directors to ensure that **schools are compliant with complaints and appeals processes** and that parents and carers are aware of the options for taking a complaint beyond the school.
- (b) Implement automated and integrated electronic data collection systems for the centralised recording, reporting and analysis of **school-based (Level 1) complaints data** to support the identification of systems trends and service delivery improvements, and ensure this data is accessible to school leaders and Education Directors to support regional and school-based decision-making regarding systems and service delivery improvements.

\* See also Recommendation 9(c) regarding the recording, reporting and analysis of data for complaints and appeals to the Education Ombudsman.

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#### Terms of Reference:

- *The use of suspensions for attracting funding and other supports for students.*
- *The prevalence and use of formal and informal suspensions, exclusions and expulsions.*

**Finding 5.1:** Take homes, suspensions and exclusions are used too frequently, for inappropriate or minor reasons (such as not following instructions, minor physical acts, talking in or missing class), and in a manner that is not aligned with the SA Department for Education's SEE Procedures. Primary school aged students especially are too regularly sent home, suspended or excluded for minor behaviours, some of which are influenced by developmental factors like maturity and self-regulation. The proportion of take homes, suspensions and exclusions for severe incidents is significantly lower, indicating that exclusionary discipline is being used as a default behaviour management strategy and not as a last resort. The permissible grounds for suspension and exclusion within the *Education and Children's Services Act 2019* (SA) are too broad, subjective, and, in some cases, discriminatory and not aligned with best practice or international human rights obligations.

The use of take homes and suspensions often lead to further escalation in the use of take homes, suspensions and exclusions, indicating take homes and suspensions are being used in a manner that does not address the drivers of problem behaviours but likely reinforces it. This escalation is exemplified in the finding that while first/single take home incidents have increased by 36.2% in the past decade, subsequent or multiple incidents have increased by 78.1%. Worryingly, the greatest increase in the use of take homes is in Reception which recorded an increase of 107.7% between 2010 and 2019 with no decline in the use of suspension. In fact, suspensions in primary increased by 23.1% during that period.

Exclusions are also being used in a manner that is inconsistent with requirements under the *Education and Children's Services Act 2019* (SA), including the requirement that a student must be suspended prior to an exclusion. For example, 23.8% of students excluded in 2019 were not issued a suspension prior to the exclusion incident. Importantly, evidence suggests that exclusions are being used for students with disability who are not provided with the level of reasonable adjustments likely necessary to prevent incidents that lead to the use of exclusion. The use of exclusions results in many students, particularly students with disability, Aboriginal students, and students in care being removed from school for significant periods of time (sometimes months at a time) with limited or no access to quality educational and developmental opportunities during the exclusion.

**Finding 5.2:** There is a consistent and significant increase in the number of suspensions between Year 7 and Year 8, raising concerns about secondary school culture and practice, and the potential impacts when Year 7 transitions to the secondary phase of schooling. The increase in suspensions between Year 7 and Year 8 in 2019, for example, was 58.9%. Put another way, there were 141.4 incidents per 1000 Year 7 students compared to 227.9 incidents per 1000 Year 8 students. This higher suspension rate is likely to shift from Year 8 to Year 7 when Year 7 transitions to the secondary phase of schooling in 2022, if the SA Department for Education does not implement reforms to limit the number of teachers that Year 7 students must navigate in a day, explicitly teach prosocial self-management skills,

ensure evidence-based best practice is in place to prevent and address behavioural incidents, and achieve consistency between classrooms and across schools.

**Finding 5.3:** Requirements under the *Education and Children’s Services Act 2019* (SA) to obtain approval before suspending a student for more than 15 school days or on more than four occasions in one school year are not routinely followed. For example, 278 students were suspended for more than 15 days in 2019, and 804 were suspended on more than four occasions, leading to 1,798 suspensions above the legislative threshold. Similarly, requirements to obtain approval before excluding a student for a period longer than 20 weeks in a school year do not appear to be routinely followed. We heard that the approval is delegated to Education Directors, however, staff interviewed were not aware of this delegation and could not recall approving any permission requests. The SA Department for Education does not have in place effective mechanisms to enforce and monitor compliance with these statutory thresholds

**Finding 5.4:** There is evidence that schools continue to use informal take homes and suspensions, and that formal suspensions are misused to build a case for funding or other supports for students. These practices disproportionately affect students with disability, some of whom are not receiving the levels of adjustment necessary to prevent the behaviours for which they are sent home, suspended or excluded. The use of informal take homes and suspensions, as well as formal suspensions for inappropriate reasons is not effectively monitored or prevented by the SA Department for Education.

RECOMMENDATIONS FOR THE SOUTH AUSTRALIAN GOVERNMENT	FINDINGS
<p><b>RECOMMENDATION 13</b></p> <p>That the South Australian government amend the <i>Education and Children’s Services Act 2019</i> (SA) to:</p> <ul style="list-style-type: none"> <li>(a) <b>Include take homes.</b></li> <li>(b) Improve clarity and reduce subjectiveness of interpretation by <b>revising and making explicit the grounds permissible for the use of exclusionary discipline</b>, as per international best practice examples, including through: <ul style="list-style-type: none"> <li>(i) the introduction of levels of incident severity (lower level and severe), and</li> <li>(ii) providing a list of approved responses for each level,</li> <li>(iii) proscribing the use of all forms of exclusionary discipline for lower level (minor) incidents,</li> <li>(iv) proscribing the use of any form of exclusionary discipline—for any reason—to children in Reception through to end Grade 2.</li> </ul> </li> <li>(c) Include an explicit <b>requirement that schools implement evidence-based alternative responses</b> to disciplinary infractions, such as restorative practice and skill-building in-school-suspension, to be enacted within a multidimensional Multi-Tiered System of Support (MTSS) framework designed to improve students’ academic, social-emotional and behavioural outcomes (as suggested in Recommendation 3b).</li> <li>(d) Change the <b>permissible periods of suspension</b> from 1-5 days to align with other Australian states (e.g., WA, NSW, Tasmania), by encompassing short and long</li> </ul>	<p>5.1, 5.2</p>

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suspensions of 1-5 days and 6-10 days respectively, reserving long suspensions for students in Grades 7 to 12 and only for the most severe incident level (e.g., hard drugs, possession of a deadly weapon, serious physical assault requiring medical attention, deliberate physical assault of a teacher, sexual harassment and sexual assault).

- (e) **Implement additional safeguards for priority equity groups** (e.g., students with disability, Aboriginal students and students in care), such as requiring principals to ensure effective reasonable adjustments and supports are in place for students with disability, that trauma-informed practices have been implemented, and that culturally appropriate pedagogies are in place and being employed with fidelity prior to issuing a take home or suspension.
- (f) **Abolish exclusions,**
- (g) **Require written approval** from Education Directors to allow more than four (4) take homes in a school year,
- (h) **Require written approval** from Education Directors to allow more than two (2) suspensions or more than 10 days suspension in a school year,
- (i) Trigger formal departmental level **review** of the student's educational program, including the appropriateness and relevance of the supports, adjustments and funding being provided to the student, on breach of the thresholds at (g) and (h).

*\* Monitoring implementation of these legislative thresholds and safeguards should be the responsibility of the new independent statutory body in Recommendation 14 below.*

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#### RECOMMENDATION 14

5.3, 5.4

That the South Australian government **add** to the responsibilities of the recommended new independent statutory body, the Education Ombudsman (or Education Commission), discussed in Recommendations 9 and 10:

- (a) Processes to enable students or their parent or carer **to report the inappropriate use of informal exclusionary discipline**, including both take homes and suspensions.
- (b) **Investigate** use of exclusionary disciplinary practices inconsistent with legislation, policy and procedure, best practice and international human rights obligations, including:
  - (i) use of exclusionary discipline in response to minor behaviours.
  - (ii) whether exclusionary discipline is used as a last resort.
  - (iii) repeat use of exclusionary discipline, including compliance with obligations to obtain approval from an Education Director for repeat exclusionary practices above statutory thresholds.
  - (iv) use of inappropriate formal and informal exclusionary discipline, including for attracting funding, and implementation of mechanisms to monitor and prevent such practices.
  - (v) the effectiveness of internal processes to enable regular multi-system level (school, region, central) analysis of exclusionary discipline data to support data-based decision making, the identification of system trends, and enable service delivery improvements.

*\* See also Recommendations 9 and 10.*

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RECOMMENDATIONS FOR THE SA DEPARTMENT FOR EDUCATION	FINDINGS
<p><b>RECOMMENDATION 15</b></p> <p>That the SA Department for Education:</p> <ul style="list-style-type: none"> <li>(a) Implement rigorous electronic <b>accountability mechanisms</b>, capable of monitoring the required Education Director sign-off and which cannot be overridden, to monitor new statutory thresholds,</li> <li>(b) Implement rigorous electronic <b>accountability mechanisms</b> to quickly identify patterns in take homes and suspensions data, and trigger review of supports and adjustments being provided,</li> <li>(c) <b>Address any perverse incentive</b> (perceived or real) in IESP through revisions to this resource allocation method.</li> </ul> <p>* See also Recommendation 27.</p>	<p>5.1, 5.3, 5.4</p>
<p><b>RECOMMENDATION 16</b></p> <p>That the SA Department for Education:</p> <ul style="list-style-type: none"> <li>(a) Adopt key elements of practice critical to successful implementation of a system-wide Multi-Tiered Systems of Support (MTSS) framework (see also Recommendation 3b) designed to improve students' academic, social-emotional and behavioural outcomes, including: <ul style="list-style-type: none"> <li>(i) <i>Social-emotional learning</i> to explicitly teach children and young people the prosocial skills of self-efficacy, self-regulation, goal setting, assertiveness and conflict management.</li> <li>(ii) <i>School-wide Positive Behaviour Interventions and Supports</i> (PBIS) to ensure evidence-based best practice is in place to prevent and address behavioural incidents, and achieve consistency between classrooms and across schools.</li> </ul> </li> <li>(b) Implement similar reforms to Queensland state and Catholic schools to ensure common subjects (e.g., English/Humanities, Science/Maths) are taught by the same teachers (a "core teacher" model) to <b>limit the number of teachers</b> that students in Year 7 must navigate in one school day.</li> </ul>	<p>5.1, 5.2</p>
<p><b>RECOMMENDATION 17</b></p> <p>That the SA Department for Education implement robust and intelligent accountability mechanisms to ensure:</p> <ul style="list-style-type: none"> <li>(a) Effective <b>implementation of strategies</b> for reducing and eliminating the over-representation of at-risk students in exclusionary discipline practices.</li> <li>(b) Effective implementation of <b>behaviour support</b> policies and procedures.</li> <li>(c) Effective provision of <b>reasonable adjustments</b> and appropriately targeted evidence-based support to students with disability</li> </ul>	<p>5.1</p>

### Terms of Reference:

- whether vulnerable or at-risk students are over-represented in suspension, exclusion and expulsion numbers and whether the department is effectively addressing any such issues.

**Finding 6.1:** Most exclusionary practices are issued to students in “at-risk” or priority equity groups (students with disability, Aboriginal students, students in care, students attending Category 1-3 schools), indicating that more effective strategies urgently need to be put in place to address their over-representation in the use of exclusionary discipline. Students in any of these categories have over three times the risk of other students of being sent home, more than two times the risk of suspension, and more than three times the risk of exclusion, with the degree of increased risk much higher depending on the group in question. Moreover, many students belong to *more than one* of these groups, which increases the likelihood that they will experience exclusionary discipline. The over-representation of these priority equity groups remains significant despite recommendations in inquiries aimed at addressing over-representation issues over the last 10 years, including the Cossey Report (2011), the Nyland Report (2016), and the Select Committee Report (2017). Critically, only one in 10 take homes, suspensions or exclusions are issued to students who do not belong to one of these priority equity groups, meaning that these sanctions are overwhelmingly being used against South Australia’s most vulnerable children.

RECOMMENDATIONS FOR THE SA DEPARTMENT FOR EDUCATION	FINDINGS
<b>RECOMMENDATION 18</b> That the SA Department for Education: (a) Ensure that the system-wide Multi-Tiered Systems of Support (MTSS) framework suggested in Recommendation 3b is established on the <i>foundations of</i> : (i) <i>inclusive education</i> , enacted through accessible pedagogies informed by the principles of Universal Design for Learning (UDL), evidence-based tiered academic, social-emotional and behavioural supports together with valid progress measures, and reasonable adjustments to address the pedagogical, attitudinal, and environmental barriers that prevent students with disability from accessing and participating in education on the same basis as students without disability, and (ii) <i>culturally appropriate practice</i> , which promotes respect for Aboriginal peoples and cultures, and takes a strengths-based approach to Aboriginal education. (b) Incorporates <b>systematic and evidence-based</b> approaches to: (i) <i>social-emotional learning</i> to explicitly teach children and young people the prosocial skills of self-efficacy, self-regulation, goal setting, assertiveness and conflict management, (ii) <i>trauma-informed practice</i> , which is carefully implemented to avoid the over-withdrawal of students into sensory or reflection rooms or other strategies that may reinforce unhelpful behaviours. (c) Revise the Department for Education’s <i>Aboriginal Education Strategy: 2019 to 2029</i> to acknowledge the disproportionate negative impacts of exclusionary discipline on Aboriginal students and include explicit strategies	6.1

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and targets/indicators to monitor and eliminate their overrepresentation in take homes and suspensions within the revised strategy.

- (d) Expand SAASTA to incorporate Years 7 to 10 and **employ more Aboriginal staff**, including former SAASTA graduates, to develop and lead the program for the benefit of more Aboriginal young people and their communities.
  - (e) Ensures **additional safeguards** are in place for priority equity groups (e.g., students with disability, Aboriginal students and students in care) such as school-based case management processes and professional collaboration between classroom teachers, specialist teachers, allied health professionals and Aboriginal Education staff to design, implement and review student support and adjustments.
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#### Terms of Reference:

- *The effectiveness of behaviour support policies and student support services.*

**Finding 7.1:** the SA Department for Education’s Behaviour Support Policy promotes practice that is aligned with international human rights obligations, best practice, and obligations under the DDA and DSE, however there remain opportunities to further strengthen the Behaviour Support Policy, as well as other elements of the SA Department for Education’s legislative and policy framework, to ensure the right to *inclusive* education is explicitly recognised and promoted, obligations under the DDA and DSE are clearly articulated and supported by explicit guidance regarding implementation of reasonable adjustments, and exclusionary discipline practices are used only as a last resort.

**Finding 7.2:** While the Behaviour Support Policy encourages best practice, SA government schools continue to employ practices that are in breach of international human rights obligations, best practice, and obligations under the DDA and DSE, as well as the SA Department for Education’s own policies and procedures. There is need for significant improvement in the implementation of inclusive practices, including the provision of clear guidance and strategies to support schools to effectively implement such supports, supported by a system-wide framework that unifies behaviour support and inclusive practices across SA government schools.

**Finding 7.3:** while the new OnePlan procedures promote a more unified, student-centred approach to planning of individualised learning and behaviour supports, there remain significant concerns that they are not being effectively implemented and are not contributing to significant improvements in practice.

**Finding 7.4:** while some schools continue to experience difficulties navigating the new IESP funding model for students with disability, the model is founded on principles that should promote more effective implementation of adjustments for students with disabilities as the model continues to mature. However, there remain concerns regarding misuse of individualised funding which may not be effectively monitored to ensure compliance with departmental policy and procedures.

**Finding 7.5:** while the SA Department for Education has invested in staff professional development such as SMART (Strategies for Managing Abuse Related Trauma) training and

Berry Street training, professional development for staff is inconsistent across the state, and there is no unifying framework to guide and commit schools to investing in professional development that is targeted at supporting implementation of effective and inclusive behaviour supports for all students. Similarly, programs and strategies for behaviour support are not consistently and cohesively implemented in SA government schools, as there is no unifying, system-wide framework for supporting schools to implement strategies for promoting and explicitly teaching positive behaviours, student connectedness and student-teacher relationships.

RECOMMENDATIONS FOR THE SOUTH AUSTRALIAN GOVERNMENT	FINDINGS
<p><b>RECOMMENDATION 19</b></p> <p>That the South Australian government amend the <i>Education and Children’s Services Act 2019</i> (SA) to include:</p> <ul style="list-style-type: none"> <li>(a) As an object of the Act that every child is supported to enjoy the <b><i>right to an inclusive education</i></b>.</li> <li>(b) The requirement that any form of exclusionary discipline may only be used <b><i>as a last resort, and only for serious behaviours to be described in the Act</i></b>.</li> </ul>	7.1
RECOMMENDATIONS FOR THE SA DEPARTMENT FOR EDUCATION	FINDINGS
<p><b>RECOMMENDATION 20</b></p> <p>That the SA Department for Education <b>revise the SEE Procedures</b> to:</p> <ul style="list-style-type: none"> <li>(a) Ensure they explicitly recognise and require decisions to be made in a way that <b><i>promotes and protects every student’s right</i></b> to inclusive education.</li> <li>(b) Include a clear <b><i>definition of ‘inclusive education’</i></b> that draws from international human rights instruments.</li> <li>(c) Require that exclusionary discipline <b><i>must</i></b> only be used as a last resort, and only after evidence-based educative responses have been exhausted including provision of reasonable adjustments, restorative practices, trauma-informed practices, culturally appropriate practice, and skill-building in-school suspension.</li> <li>(d) Require that exclusionary discipline must be used in a targeted way to meet <b><i>all</i></b> of the seven core functions of the Behaviour Support Policy.</li> </ul>	7.1
<p><b>RECOMMENDATION 21</b></p> <p>That the SA Department for Education:</p> <ul style="list-style-type: none"> <li>(a) Revise the Behaviour Support Policy to make explicit reference to <b><i>educators’ obligations</i></b> under the <i>Disability Standards for Education 2005</i>, including: <ul style="list-style-type: none"> <li>(i) consulting students with disability in the identification, design and implementation of reasonable adjustments,</li> <li>(ii) ensuring the provision of appropriate reasonable adjustments, and monitoring their effectiveness,</li> <li>(iii) eliminating bullying and harassment of students with disabilities.</li> </ul> </li> </ul>	7.1, 7.2

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- (b) **Implement high-level training** for all Support Services staff in Multi-Tiered Systems of Support (MTSS), social-emotional learning (SEL), restorative and trauma-informed practice, Functional Behaviour Assessment (FBA), and Positive Behaviour Intervention and Supports (PBIS).
  - (c) Enable these staff to monitor, promote and support the use of these practices across SA government schools through a **coaching model** with expansion of behaviour support staff numbers as necessary to achieve implementation and practice fidelity,
  - (d) Monitor **implementation and practice fidelity** through the use of recognised PBIS measures, regular data collection cycles and analysis.

\* See also Recommendations 3(b) and 8.

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#### RECOMMENDATION 22

7.3, 7.4

That the SA Department for Education:

- (a) Investigate and **revise the OnePlan process** with a view to simplifying and streamlining the process, ensuring that valuable school staff time is preserved to facilitate effective implementation,
- (b) Revise the Inclusive Education Support Program (IESP) process to **reduce application burden** on school staff,
- (c) Develop **rigorous accountability mechanisms**, such as parent agreement and sign-off, to ensure that resourcing (e.g., IESP funding and SSO deployment) is effectively utilised to:
  - (i) Support student learning, engagement and behavioural outcomes using evidence-based practice, upskilling classroom teachers and providing them with time to collaboratively plan, consult students, design and implement adjustments, partner with parents and carers, and gain the advice and support of allied health professionals such as speech pathologists, occupational therapists and school counsellors,
  - (ii) Maintain student connectedness during a disciplinary absence, and that it always transfers with the student and cannot be used for other staffing or for students other than those for whom the funding was sought.

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#### RECOMMENDATION 23

7.5

That the SA Department for Education:

- (a) Require all SA Department for Education and school staff to engage in **high quality, accredited professional learning** to:
    - (i) learn the fundamental concepts of genuine inclusive education and educators' obligations to consult students and provide reasonable adjustments, as well as eliminate harassment and victimisation of students with disability.
      - ✓ Note that there is **free** introductory PD relating to inclusive education available online at: <https://www.futurelearn.com/courses/inclusive-education>
    - (ii) to acquit their obligations under the Disability Standards for Education (DSE) as outlined in and the Disability Standards for Education (DSE).
      - ✓ Note that there is **free** PD relating to educators' obligations as per the DSE available online at: <https://www.nccd.edu.au/resources-and-tools/professional-learning/format/e-learning-5>
    - (iii) enable them to more accurately interpret students' presenting characteristics in order to identify and provide relevant and effective reasonable adjustments, irrespective of whether a student has an identified disability or is in receipt of
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- individually targeted funding, to ensure educators meet their obligations under the DSE;
- (iv) learn about the impacts of childhood complex trauma and the fundamentals of trauma-informed practice.
    - ✓ Note that there is **free** introductory PD on trauma-informed practice available online at: <https://www.futurelearn.com/courses/teaching-students-trauma>
  - (i) engage in culturally appropriate practice, eliminate both direct and indirect racism, and promote respect for Aboriginal children and young people.
    - ✓ Note that the ABC recently collaborated with Archie Roach to produce **free** resources relating to Aboriginal history education, including considerations for cultural safety in the classroom, available online at: <https://education.abc.net.au/home#!/topic/3717751/archie-roach>
  - (v) support the system-wide implementation of Positive Behaviour Intervention Supports (PBIS) as one element within a multidimensional Multi-Tiered System of Support.
- (b) Support South Australian public educators to engage in **professional learning communities**, such as Quality Teaching Rounds (Gore et al., 2017), where educators collaborate in cycles of professional learning, engage in professional dialogue, observe each other's classrooms and provide supportive peer feedback focusing on areas of practice and elements critical to the successful implementation of a Multi-Tiered Systems of Support (MTSS) framework.
- (c) **Provide school communities with guidance** in the implementation of Multi-Tiered Systems of Support (MTSS) framework by identifying and celebrating examples of high-quality practice in SA government schools. Consider replacing awards that celebrate individuals (e.g., 'Primary teacher of the Year') with awards that drive collaboration and excellence in the elements of practice critical for success, such as programs and initiatives that:
- (i) enhance student voice, involvement in decision-making, and/or engagement and wellbeing,
  - (ii) lead to measurable reductions in the use of exclusionary discipline with attention to the impact on school connectedness and student outcomes,
  - (iii) embed the foundations of quality inclusive practice, culturally appropriate practice, and trauma-informed practice,
  - (iv) explicitly teach self-regulation through social-emotional learning.
- 

#### Terms of Reference:

- the number of children of compulsory school age who have been disengaged from education, including through modified or other enrolment or different options, including home schooling. This should specifically consider the use of take homes, part-time programs, exemptions, [FLO], home-schooling and Open Access.

**Finding 8.1:** While SA Department for Education data indicates part-time arrangements have dropped by 23.7% since 2015, evidence from stakeholder consultation indicates they continue to be used informally without being recorded and reported, are used for inappropriate reasons inconsistent with current policy, and are not effectively monitored to ensure compliance. This is particularly the case for students with a disability.

**Finding 8.2:** Students with a verified disability (e.g., those receiving IESP) and Aboriginal students receive the largest proportion of exemptions, however limitations to data including reasons for exemptions restrict detailed analysis of the appropriateness of their use.

**Finding 8.3:** Students with disability represented more than one third of enrolments in Open Access College in 2019, as well as students registered as being home-schooled (29.0% in 2019), which suggest failure to properly support these students within mainstream schools.

**Finding 8.4:** While enrolments in FLO have fallen by 13.1% since 2016, when primary school aged children were moved out of FLO, Aboriginal students and students with disability continue to be overrepresented in FLO enrolments (accounting for 16.7% and 19.0% in 2019, respectively), current FLO models appear to be compounding student segregation and disengagement, and there is a lack of adequate oversight and monitoring of the quality of these programs particularly around the use of funding, student attendance, retention, achievement and school completion.

**Finding 8.5:** Some education staff continue to hold attitudes towards students with disabilities that are not aligned with principles of best practice, international human rights obligations, and obligations under the DDA and DSE. School leaders face barriers to ensuring all teaching staff positively contribute to the achievement of school improvement targets and implementation of inclusive practices consistent with best practice and statutory obligations.

RECOMMENDATIONS FOR THE SA DEPARTMENT FOR EDUCATION	FINDINGS
<p><b>RECOMMENDATION 24</b></p> <p>That the SA Department for Education:</p> <p style="padding-left: 40px;"><b>Commission research</b> to document the full range of alternative provisions available through the SA government school sector, investigate their effectiveness and evaluate their purpose in line with international conventions and South Australia’s ambitions to provide a world-class education.</p>	<p>8.1, 8.2, 8.3</p>
<p><b>RECOMMENDATION 25</b></p> <p>That the SA Department for Education:</p> <p style="padding-left: 40px;">(a) <b>Decommission</b> the Flexible Learning Options (FLO) and Alternative Learning Programs (ALP).</p> <p style="padding-left: 40px;">(b) Meet the needs of students previously referred to alternative, flexible and segregated learning options through the improvement of regular classroom practice and the provision of tiered supports as per a system-wide <b>Multi-Tiered Systems of Support (MTSS) framework</b>, as recommended throughout this report.</p>	<p>8.4, 9.3</p>
<p><b>RECOMMENDATION 26</b></p> <p>That the SA Department for Education:</p> <p style="padding-left: 40px;">(a) Investigate ways to <b>better support principals and Education Directors</b> to ensure all staff:</p> <p style="padding-left: 80px;">(i) engage in quality and ongoing professional learning in areas that support SA Department for Education school improvement targets,</p>	<p>8.5</p>

- 
- (ii) contribute positively and effectively to the learning, engagement, and behaviour of all students,
  - (iii) model productive and respectful behaviours,
  - (iv) implement evidence-based best practice, and
  - (v) uphold their obligations under international law, and Commonwealth and state legislation.
- 

#### Terms of Reference:

- Keeping accurate and transparent records of the number of children suspended, excluded or expelled from school; the nature of and reason for their suspension, exclusion or expulsion; and their modified or other enrolment or different options (including hours of contact, curriculum offerings, etc.)
- Whether the data collected by the department regarding suspensions, exclusions and expulsions is sufficient to inform departmental policy-making programs

**Finding 9.1:** While data regarding take homes, suspensions, exclusions and expulsions are generally sufficient to inform departmental policy-making and programs, there are opportunities to improve the use of this data including through improving its accessibility to Education Directors. Currently, data collected by the SA Department for Education regarding suspensions, exclusions and expulsions is not sufficient to inform departmental policy-making and programs. Given the range of data available to the SA Department for Education these data should be further analysed in future collaborative research to help better monitor and address incidents, particularly in relation to bullying and harassment, to identify and upscale high-quality practices, and to better tailor programs and practices to improve student outcomes.

**Finding 9.2:** Existing data categories and sub-categories for student discipline such as take homes, suspensions and exclusions overlap and may result in inaccuracies in data, particularly in relation to the prevalence of bullying in government schools, limiting the SA Department for Education's capacity to rely on this data to inform policy-making and programs.

**Finding 9.3:** Existing data reporting and monitoring frameworks for Flexible Learning Options are not sufficient to support robust analysis of the impacts of FLO on student engagement and achievement, and to inform departmental policy decisions about the future of FLO. However, due to the seriousness of the problems in FLO, including the poor outcomes that been noted in other research, we have instead recommended that the SA Department for Education decommission FLO (see *Recommendation 24a*). The South Australian government might consider redirecting the funding currently used for FLO to support the establishment of a Multi-Tiered Systems of Support (MTSS) framework.



RECOMMENDATIONS FOR THE SA DEPARTMENT FOR EDUCATION	FINDINGS
<p><b>RECOMMENDATION 27</b></p> <p>That the SA Department for Education:</p> <p>(a) Develop <b>data dashboards</b> using performance indicators that are disaggregated by priority equity group (Aboriginal students, students with disability, students in care) to:</p> <ul style="list-style-type: none"> <li>(i) detect patterns and monitor changes in the use of exclusionary discipline for all students, especially those in priority equity groups, by category of school and by school,</li> <li>(ii) enable multilevel system-wide identification and elimination of overrepresentation in: <ul style="list-style-type: none"> <li>1. take homes and suspensions</li> <li>2. all enrolment options (e.g., mainstream, special classes, units and schools, part-time programs, Open Access, exemptions and home schooling),</li> </ul> </li> <li>(iii) monitor and improve the academic performance of students in these priority equity groups,</li> <li>(iv) increase the proportion of these students achieving a South Australian Certificate of Education,</li> <li>(v) assist school leaders to engage in data-based decision making.</li> </ul> <p>(b) Establish exclusionary discipline indicators and reduction targets for students in priority equity groups (Aboriginal students, students with disability, students in care) to sit within the Key Performance Indicators (KPIs) of Education Directors.</p> <p>* See Recommendation 25a in relation to Finding 9.3</p>	<p>9.1, 9.3</p>
<p><b>RECOMMENDATION 28</b></p> <p>That the SA Department for Education:</p> <p>(a) <b>Commission research</b></p> <ul style="list-style-type: none"> <li>(i) to examine the incidents that are being described as bullying versus those being described as 'Written or Verbal Threats' and 'Physical Assault (Minor)' to determine whether these data are a true representation of actual incidents and how to better disentangle and thus monitor and address the prevalence of bullying and harassment in SA schools.</li> <li>(ii) identify high quality practices occurring at school level using SA Department for Education data to learn more about the leadership, teaching and support practices occurring in those schools with the view to upscaling and sharing quality practices.</li> <li>(iii) investigate relevant protective and predictive factors using longitudinal statistical analysis techniques of existing linked datasets, which may help the SA Department for Education implement programs and practices to improve student outcomes.</li> </ul> <p>* See also Recommendation 24.</p> <p>(b) <b>Revise</b> the reasons available to principals on EDSAS to:</p> <ul style="list-style-type: none"> <li>(i) align with the newly revised permissible grounds (as per Recommendation 12),</li> <li>(ii) provide clearer distinction between categories to achieve greater data accuracy.</li> </ul> <p>(c) <b>Make exclusionary discipline data publicly available</b> and disaggregate by gender, year level, priority group status, school phase, category of school, reason and duration to enable greater public scrutiny of progress towards reduction in use.</p>	<p>9.1, 9.2</p>

## 1.4 ABOUT THE INQUIRY

### 1.4.1 Structure of this report

The Terms of Reference for this Inquiry are broad and require an understanding of the recent history of education in South Australian government schools, particularly the development of policies and procedures relating to school discipline, to provide a backdrop to the data, discussion and recommendations that follow. The background and context to this Inquiry is considered in Chapter 2, which provides a brief summary of the South Australian schooling community and historical developments including recent inquiries and Royal Commissions relating to the use of discipline in South Australian government schools.

As noted above, the Terms of Reference require an analysis of whether the Department for Education is complying with international conventions, legislative requirements, and governmental and departmental policies and procedures in its use of suspensions, exclusions, and expulsions. They also require an analysis of whether policy and procedures align with best practice. In order to address these Terms of Reference, Chapters 3 and 4 consider existing legal and rights frameworks, including recent literature regarding best practice. Specifically, Chapter 3 provides an analysis of obligations under relevant international instruments and Commonwealth legislation and policy, and summarises South Australian legislation, policy and procedure relevant to the Terms of Reference. Chapter 4 follows with an analysis of relevant literature regarding best practice in supporting students' equal access to education and use of disciplinary practices.

Feedback received through focus groups and interviews with stakeholders, as well as responses to the online submissions survey are analysed in Chapter 5. This is followed by an analysis of data received from the SA Department for Education Data Unit in Chapters 6 to 10. Specifically, Chapter 6 considers data relating to the prevalence of take homes, suspensions, exclusions, and expulsions, and includes an examination of patterns (i) over time, (ii) by year level (R-12), (iii) school phase (primary vs secondary), (iv) in primary and secondary 'other' settings, and (v) in Flexible Learning Options (FLO). Chapter 7 follows with a deeper look into patterns for each type of disciplinary response. Chapter 8 explores the over-representation of 'at-risk' students in take homes, suspensions, exclusions, and expulsions, including students with disability, Aboriginal students, students living in care, and students from low-socio-economic backgrounds. Chapter 9 provides an analysis of data and trends relating to alternative education programs including part-time arrangements, Flexible Learning Options (FLO), Open Access College and home-schooling. Finally, Chapter 10 examines data and record keeping.

Chapter 11 then discusses findings relevant to each of the Terms of Reference through examination of the data in Chapters 5 to 10 with reference to the legal and rights frameworks considered in Chapters 3 and 4. Examples of good practice are identified, as well as practices that are not compliant with legal obligations and international human rights principles. Finally, recommendations are made to support the Department's future roadmap for legislative, policy and practice reform to promote the rights, interests and outcomes of students and improve alignment with international human rights obligations.

#### 1.4.2 Confidentiality

The Inquiry consulted broadly and received considerable feedback from a variety of stakeholders. The views and opinions of stakeholders are captured in quotes throughout this report. The Inquiry and the SA Department for Education recognise and respect the privacy of individual respondents, particularly in light of the sensitive and sometimes personal accounts provided by students and families across South Australia. As such, all feedback received in the course of this Inquiry is de-identified to protect the privacy of all respondents. All names are pseudonyms, and all potentially identifying information has been removed from this report, including names of organisations.

#### 1.4.3 Disclaimer

It has been necessary in this report to examine and discuss the meaning and intended operation of provisions in various Commonwealth and state Acts of Parliament, as well as the operation of Commonwealth and state policy and procedures. The views expressed in this report as to the meaning and operation of any provision in an Act of Parliament, or any policy or procedure, are not intended as, nor should they be considered legal advice and should not be relied upon as such. Information contained in this report is current as at the date of the report and may not reflect any event or circumstances which occur after the date of the report.

#### 1.4.4 Limitations


This report and recommendations are informed by data received from the Department for Education's Data Unit. Furthermore, as noted above, CDC's Senior Statistician, Mr Bradley McDonald, was responsible for collecting educational data from the SA Department for Education and acting as the liaison between SA Department for Education Data Unit staff and the Inquiry team. The findings and recommendations of this report are dependent on the quality of data received. While all attempts have been made to ensure the accuracy and integrity of data, including submission of the data analysis chapters for review, the Inquiry team does not make any representations or warranties as to the completeness and accuracy of the data received from the Department for Education Data Unit and which is considered throughout this report.

#### 1.4.5 Impacts of COVID-19

Various restrictions were imposed across South Australia and the rest of the country in response to the COVID-19 pandemic. This prevented the Inquiry from travelling to Adelaide between late March and July 2019, including travel to regional and remote communities and Aboriginal communities to seek feedback to inform the Inquiry. However, the Inquiry continued to seek feedback from stakeholders throughout the COVID-19 restrictions through the use of technology, including through the online submissions survey. Despite the restrictions on interstate travel, the Inquiry and this report remain informed by the views and opinions of a broad range of stakeholders including from regional and remote communities and Aboriginal communities.

#### 1.4.6 Acknowledgements

The Inquiry Team thanks all the people who generously shared their time, expertise, experiences, data, and information either as individuals or as representatives of organisations. Your expertise and passion in relation to education and the complex issues surrounding the use of take homes, suspensions, exclusions, and expulsions was enlightening and energising. We are enormously grateful to both past and current students, as well as their families for sharing



their stories, including relating to difficult experiences in navigating the education system, which remind us of the real purpose and importance of this work.

We are appreciative of the opportunity afforded by The Hon John Gardner MP, Minister for Education to undertake this work, and the Minister's commitment throughout the Inquiry to ensure we were able to access critical information and data to guarantee the integrity and robustness of this report. This also would not have been possible without the support of the Department for Education's Chief Executive, Mr Rick Persse, and the many others within the SA Department for Education who assisted the Inquiry including Dr Peta Smith, Ms Lisa Bancroft, Ms Debbie Dennis and Mr David Engelhardt. We are grateful for your support.

This Inquiry and report would also not have been possible without the support of staff of the Child Development Council (CDC), which hosted members of the Inquiry Team, including Presiding Chair, Dr Anne Glover, Ms Magdalena Madden, and Ms Sally Chapman. We make special thanks to CDC's Senior Statistician, Mr Bradley McDonald, who obtained data from and liaised with key staff in the SA Department for Education Data Unit and provided support with statistical analyses. The support, insights and administrative assistance provided by CDC throughout this process was invaluable.

**The citation for this report is:**

Graham, L. J., McCarthy, T., Killingly, C., Tancredi, H., & Poed, S., (2020). *Inquiry into Suspension, Exclusion and Expulsion Processes in South Australian government schools: Final Report*. The Centre for Inclusive Education, QUT: Brisbane, QLD.

## 2 RESEARCH CONTEXT & BACKGROUND

This chapter offers a brief summary of the South Australian schooling community and history leading up to this Inquiry to provide context to the rest of the report. This includes consideration of relevant features of the South Australian school community and trends in school demographics. Key historical developments and past Inquiries are also considered, particularly as they relate to the use of suspensions, exclusions and expulsions in South Australian government schools.

### 2.1 SOUTH AUSTRALIAN GOVERNMENT SCHOOLS

With a population of 1.75 million people, South Australia is a comparatively small state, accounting for 6.9% of the national population in 2019 (Australian Bureau of Statistics, 3101.0, 2019). South Australia also educates 6.9% of all Australian students. In 2019, there were 715 schools in South Australia, enrolling 272,549 students in total. Government schools educate the majority of children and young people in South Australia (65.0%) with 177,246 students attending 511 government schools in 2019 (ABS, *Schools Australia*, 2019). In the 2019-2020 Budget, the State Government announced an increase of \$611 million to be spent on schools between 2022-23, including \$185.3 million over seven years for capital upgrades to government schools to facilitate the transition of Year 7 into secondary school in 2022 and accommodate additional growth. In the 10 years between 2010 and 2019, funding for South Australian government schools through the government's Education Budget has increased by 55.6% (see Section 9.6.1).

#### 2.1.1 Index of Educational Disadvantage

South Australia has developed the Index of Educational Disadvantage (IoED) which is used to allocate resources to schools to address educational disadvantage related to socio-economic status (SES) in each school's catchment area. The IoED has seven categories of schools ranging from Category 1 (lowest SES) to Category 7 (highest SES). The highest proportion of students is enrolled in Category 6 schools, while the lowest proportion of students is enrolled in Category 1 schools. Between them, Category 1-3 schools enrol 31.0% of children and young people attending South Australian government schools.

Category 1	Category 2	Category 3	Category 4	Category 5	Category 6	Category 7
3.4%	15.6%	12.0%	12.1%	19.4%	21.3%	16.1%

#### 2.1.2 Students with disability

There are two administrative groupings of students with disability in South Australian schools. First, there are the students who are recorded as receiving an adjustment on the basis of disability in the Nationally Consistent Collection of Data on School Students with a Disability (NCCD). The NCCD uses the definition of disability that underpins the *Disability Discrimination Act 1992* (Australian Government [Federal Register of Legislation], 2018), which is broad and includes all people with disability. Students recorded as receiving adjustments on the basis of disability constituted 29.6% of total enrolments in South Australian government schools in 2019.

Second, there are the students who receive individually targeted funding and support through the SA Department for Education's disability support programs. In 2019, the SA Department for Education replaced the Negotiated Education Plan (NEP) with the Inclusive Education Support Program (IESP). Students receiving IESP funding constituted 10.8% of total enrolments in 2019. IESP uses expanded eligibility criteria to align with NCCD, although it still does not include (or "count") all students with disability. The percentage of students receiving individually targeted funding and support increased by 13.7% with the introduction of IESP.

In the Report of the Select Committee on Access to the South Australian Education System for Students with a Disability (2017), it was noted that all education sectors within South Australia are engaging and supporting students with disability as a core component of their service delivery. It was also noted that:

...the [data] suggests that it would be rare for an individual class not to include a student, or students, with a disability, suggesting that accommodating the needs of students with disability must be part of schools' 'business as usual' models (Parliament of South Australia, 2017, p 16).

As discussed in Section 9.6.1, funding to support students with disability has increased by 143.1%, rising from 4.2% of the total funding to SA government schools through the Education Budget to 7.2% in the 10 years from 2010 to 2019.

### 2.1.3 Aboriginal students

In 2019, there were 14,248 students identifying as Aboriginal in South Australian government schools, comprising 8.0% of total enrolments. There has been an increase of 32.0% in the number of students identifying as Aboriginal since 2010 when Aboriginal students accounted for 5.0% of total enrolments. Aboriginal students are overrepresented in Category 1-3 schools. In 2018, almost 50% of Aboriginal children enrolled in their first year of school were assessed as having a learning vulnerability in one or more areas (Commissioner for Aboriginal Children and Young People, 2019).

### 2.1.4 Students in care

In 2018, 60.9% of students in the care of the Department for Child Protection were enrolled in a government school (Guardian for Children and Young People, 2020). Of these students, 34.7% identified as Aboriginal compared to the state average of 6.4% for all students, and 30.3% were identified as having a disability compared to the state average of 9.8% (Guardian for Children and Young People, 2020).

### 2.1.5 'Special' or segregated learning environments

Students may participate in various forms of special classes within mainstream school settings or in segregated settings including alternative learning programs, behaviour centres and Flexible Learning Options. The latter are considered below and explored in more detail in Chapter 4.

#### 2.1.5.1 'Primary – Other' and 'Secondary – Other' enrolments

The terms 'Primary – Other' and 'Secondary – Other' are also used to describe special schools and dedicated special classes within a mainstream school. The 'Primary – Other' category includes eight subcategories of primary student enrolments. Six of these represent special units or schools, for (i) Physical or Sensory Impairment (PD), (ii) Hearing Impairment (PH); (iii) Vision

Impairment (PV); (iv) a verified disability in any category, plus primary Intellectual Impairment (PS); (v) severe or multiple disabilities in any category (PM); and (vi) students with either a 'V level of support' or severe or multiple disabilities in Physical, Intellectual, or Sensory Impairment categories (PZ). A seventh category reflects students enrolled in mainstream schools who take part in Disability special classes (PC). Lastly, an eighth subcategory is comprised of students enrolled in mainstream schools who take part in a dedicated program for students who have newly arrived in Australia with emerging English, and students from Australia with minimal English (PL – Intensive English Language Program (IELP)).


The 'Secondary – Other' category encompasses 10 secondary student enrolment categories, most of which refer to students enrolled in segregated special units or special schools, and several which indicate programs used in mainstream settings. The seven which refer to special schools or units include (i) Physical or Sensory Impairment (SD); (ii) Hearing Impairment (SH); (iii) Vision Impairment (SV); (iv) a verified disability in any category, plus primary Intellectual Impairment (SS); (v) three verified disabilities in any category (SM); (vi) either a 'V level of support' or severe or multiple disabilities in Physical, Intellectual, or Sensory Impairment categories (SZ); and (vii) additional category for students within mainstream schools in a designated special class (SC). Three further categories include students in mainstream schools who had (i) previously completed Year 12 but returned for additional studies at a Grade 12 level (SP); (ii) adults over 16 years (re-entry) undertaking further ungraded studies (SR); and (iii) a mainstream school program for students newly arrived in Australia with emerging English, or students from Australia with minimal English (SL – New Arrivals Program; NAP).

#### 2.1.5.2 *Alternative programs and provisions*

A number of programs have been established by the Department for Education to provide alternative options to implement behaviour support interventions beyond the mainstream classroom environment and support disengaged students (or at risk of disengaging) to return (or remain) in mainstream schooling. This includes Learning Centres, Better Behaviour Centres, and Flexible Learning Options (FLOs). Flexible learning programs are also provided through Open Access College (OAC). These alternative programs may cater for students who have been suspended, excluded or expelled and are described in detail in Section 3.8 of the Report.

## 2.2 BACKGROUND TO THIS INQUIRY

The use of disciplinary practices including suspensions, exclusions and expulsions is a feature of schooling systems across the globe. These practices gained prominence with the banning of corporal punishment in schools (Curran, 2018) and are considered by many to be necessary components of a school's collection of tools to respond to student behaviour and to protect students and school staff against the risks posed by such behaviour. However, these practices are punitive and have attracted increasing criticism from researchers and policymakers in recent years, with recommendations to instead implement forms of intervention that involve restorative justice practices or positive behavioural intervention and supports. This shift has occurred against the backdrop of criticisms that minority groups are disproportionately affected by their use (Curran, 2018), and that they contribute to achievement gaps, segregation, early school leaving, and involvement with the justice system (Raffaele Mendez, 2003). For example, data on the use of disciplinary practices have revealed patterns of bias with overrepresentation



of boys, students with disability, and children in care (Sullivan et al., 2013), as well as students from historically marginalised groups: Black-Caribbean students in England (Demie, 2019), African American students in the United States, and Aboriginal and Torres Strait Islander students in Australia (Beauchamp, 2012; Graham, 2012; Sweller et al., 2012; O'Brien & Trudgett, 2018). More recent research has reinforced concerns that use of suspension, exclusion and expulsion has a severely negative impact on students' short and long-term wellbeing and opportunities, including increased likelihood of disengagement, reduced post-school academic achievement, reduced employment opportunities, and increased risk of becoming involved in the youth justice system (Shollenberger, 2015). The ill-effects of exclusionary discipline are discussed at length in Chapter 4 of this report.

International human rights bodies and human rights instruments, including the United Nations Convention on the Rights of the Child (United Nations, 1989) and the Convention on the Rights of Persons with Disabilities (United Nations, 2008), require education systems to reconsider existing disciplinary practices. In particular the recent General Comment No. 4 to Article 24: Right to Education (United Nations, 2016) which is considered further in Chapter 3, has reinforced calls for States Parties to establish more effective systems that deliberately and systematically reduce the use of exclusionary discipline, and adopt educative practices that explicitly teach students expected and replacement behaviours, thereby protecting all students' right to an inclusive education and supporting teachers' wellbeing. This human rights backdrop has prompted a refocus on adapting policies and practices to promote early behaviour support interventions, and diversionary strategies, as part of a comprehensive multidimensional tiered framework that unifies academic, social and behavioural interventions and supports, that has come to be known as Multi-Tiered Systems of Support (MTSS). Important elements for the success of an MTSS approach are explored in Chapter 4.

Individual jurisdictions across Australia have established reviews into specific aspects of education systems in recent years including opportunities for alignment of education policies and procedures with international human rights principles. Many of these reviews have focused on the accessibility of schooling systems for students with disability, which include considerations relevant to this Inquiry, given the significant overrepresentation of students with disability in suspension, exclusion and expulsion data. However there have been few independent inquiries relating specifically to the use of suspensions, exclusions, and expulsions despite national and international concerns around their use. The South Australian Government's decision to commission this Inquiry is both unique and commendable and should set a precedent for other Australian jurisdictions. The findings and recommendations of this ground-breaking Inquiry are presented in Chapter 11. Several of these findings and recommendations are featured in previous reports from reviews, audits, inquiries and Royal Commissions but were either not implemented, not implemented with fidelity, or have since frayed in practice. We discuss those previous reports in the next section and note them in Chapter 11 where relevant.



## 2.3 PREVIOUS INQUIRIES AND REFORMS RELEVANT TO THIS INQUIRY

The journey to this Inquiry has been prefaced by a number of other significant independent inquiries that have had a lasting impact on the South Australian community and influenced the direction of legislative and policy development in recent years. The most relevant of these are described below.

Table 2.1. *Relevant reviews and inquiries*

Year	Title of review or inquiry
2011	'Cossey Review' - Review of procedures and processes in Department for Education and Children's Services (DECS) related to bullying and violence in schools (Cossey, 2011)
2012	'Deloitte Review' - The socio-economic benefits of investing in the prevention of early school leaving (Deloitte Access Economics, 2012)
2012-2013	'Debelle Inquiry' - Royal Commission: Report of Independent Education Inquiry (Debelle, 2013)
2013	'Allen Review' - Measures to improve operations and culture of the Department for Education and Child Development (Allen, 2013)
2013	Deloitte Review – Smarter Schools National Partnership Evaluation (Deloitte Access Economics, 2013)
2014	'Nyland Review' - Child Protection Systems Royal Commission
2015-2017	'Select Committee Report' - Select Committee Inquiry into access to the South Australian education system for students with disabilities

### 2.3.1 Cossey Review

In 2011, the then Minister for Education and Children's Services commissioned Bill Cossey AM to review the Department's systems, processes and procedures (referred to as the Cossey Report) following an incident at Craigmare High School involving the assault of a student, and subsequent attention to the adequacy of policies and procedures for schools to minimise and deal with incidents of bullying and violence in schools. The Cossey Report noted the considerable public interest and concern around bullying and violence in schools, as well as the complexity of this public policy issue particularly in light of the growing rates of cyber-bullying, and explored opportunities for improved multi-agency strategies including with SA Police (SAPOL) for responding to these issues. The review noted for example the existence of cross-agency pilot programs involving Community Police Officers assisting schools to resolve low-level disputes, including using restorative justice techniques, and suggested that consideration should be given to continuing and extending such programs. Recommendations also included:

- Suggestions for improvements in the reporting of incidents and notification to parents or carers of victims
- Need for development of specific anti-bullying policy and procedures with frequent review to ensure policy and procedures reflect emerging best practice
- Support for schools to implement professional, preventative programs aimed at improving the capacity of students to respond to bullying.

Relevantly, the report also noted a "desire by schools for the development of additional strategies which could be used as alternatives to exclusion as a way of dealing with anti-social behaviour," and recommended this could include "additional time out facilities in schools" and "ways of using restorative justice practices".

The Cossey Report also identified issues in relation to teacher responses to students with disability who may be at greater risk of violence or bullying:

“...[students with disabilities] are likely to require even more vigilance on the part of teaching staff if they are to be relatively free of bullying and harassment. In addition, the number and range of students with disabilities in schools is considerably testing teachers’ skills and confidence in how best to relate to these students. Past and current teacher training and continuing professional development in this area has not equipped teachers generally with the necessary skills and confidence to always relate appropriately to students with disabilities or to advise other students how to relate.” (Cossey, 2011, p. 4)

The Cossey Report subsequently recommended:

“That DECS State Office note the perceived need for discussion with providers of teacher education and training and professionals dealing with children with disabilities with a view to increasing the knowledge and skills of teachers in relating to students with disabilities. This increase in knowledge and skills would also be useful in enabling teachers to inform all students about the nature of, and most appropriate responses to, various types of disability.” (Cossey, 2011, p. 25).

### 2.3.2 Deloitte Review (2012)

In September 2012, Deloitte Access Economics published a report titled, *‘The socio-economic benefits of investing in the prevention of early school leaving’* which considered the socio-economic benefits of Hands on Learning models for supporting disengaged students to reengage in formal schooling. The report recognises that remaining connected to formal schooling is critical to the development of skills and knowledge necessary to promote positive outcomes in adulthood including in health, social and community participation, family life, and improved prospects of employment and earning, but noted that 21% of students do not complete secondary school and that those from disadvantaged backgrounds were overrepresented among early school leavers. The report claimed further investment in Hands On Learning models would return significant net benefit for disengaged students and communities. While this report considered benefits at a national level specific to the Hands On Learning model, the observations and findings of the report were relevant to policy decision-making in South Australia around how to support disengaged students, including consideration of programs such as Flexible Learning Options (FLO) which are similarly targeted at supporting students disengaged or at risk of disengagement from formal learning.

### 2.3.3 Debelle Inquiry (2012-2013)

In December 2012, a Royal Commission of Inquiry, otherwise known as the Debelle Inquiry, was established to undertake an independent review of events and circumstances surrounding the conduct of an employee of an Out of School Hours Care Service at a school in metropolitan Adelaide which led to their arrest and later conviction on charges of sexual assault against a child in his care (Debelle, 2013, p. 1). The recommendations from the Debelle Inquiry focused on the establishment of guidelines and procedures to improve the identification of allegations of sexual misconduct involving children, responses to and documentation of such allegations, and appropriate information sharing with members of the school community. The Debelle Inquiry did not specifically consider matters relating to suspensions, exclusions, or expulsions.

#### 2.3.4 Allen Review (2013)

In July 2013, the then Minister for Education and Child Development commissioned an independent review into the operations and culture of the Department for Education and Child Development. Published in September 2013, the 'Report on Measures to improve operations and culture of the Department of Education and Child Development' (Allen, 2013), otherwise known as the Allen Review, made 14 recommendations to support a culture of responsiveness to community concerns and expectations, accountability and responsibility, and core service delivery.

At this time there had been a number of recent changes to the policy landscape for education in South Australia, including:

- the new Department of Education and Child Development (DECD) which unified the Department for Education and Children's Services, Families SA (comprising child protection and adoption), and some elements of primary health care.
- significant recommendations arising from the DeBelle Inquiry which prompted significant legislative and policy reform in South Australia.
- the emergence of new national and state policy initiatives focused on improving achievement levels across all schools with heavy focus on literacy and numeracy levels, including the Gonski Review.
- the South Australian *Brighter Futures* reforms, which committed to more integrated, multi-disciplinary responses to child development across government and non-government sectors including education, child protection and primary health, and committed the DECD to a number of new projects including implementation of the national education funding reform, development of integrated support and service plans for individual children/young people (initially for children/young people in care), and establishment of a cross-department incident management division for managing complaints and appeals.

This was a critical period in South Australia's policy roadmap that would influence education service reforms for years to come. This context prompted the Allen Review to consider opportunities for recalibrated structures that would drive strong leadership and performance in the delivery of these significant reforms, as well as improving public confidence in the department's performance. While no specific recommendations were made relating to the use of discipline including suspensions, exclusions and expulsions in South Australian government schools, the recommendations included changes that would impact the internal governance structures and focus on performance improvement to support the delivery of policies and programs broadly, including the accessibility and performance of education services, and the evolution of policies and programs focused on behaviour supports and student achievement that exist today.

#### 2.3.5 Deloitte Review (2013)

In December 2013, Deloitte Access Economics produced a report ('Smarter Schools National Partnership Evaluation') commissioned by the Department for Education and Child Development that evaluated initiatives implemented under the Smarter Schools National Partnership (SSNP) agreements in South Australian government schools. Relevantly, this included a review of case management programs through Innovative Community Action Networks (ICAN) which involved 1,800 Flexible Learning Option (FLO) enrolments in 2009 and

an increase to 5,300 enrolments in 2012. Previous evaluations including by ARTD Consultants in 2012 had already reported that the ICAN program was having positive impacts including in relation to re-engagement with learning, for example by improving attendance and contributing to a decline in suspensions and exclusions. The report noted that continued investment would promote the long-term benefits of the ICAN initiative, and suggested that case management in primary school settings should be reviewed to ensure suitability (noting it was initially intended to support older students), and to ensure case management followed students during transition from primary to secondary schooling to support continuity of supports. From 2015 and 2016, primary school students and students in 'secondary other' settings were transitioned out of FLO (see Figure 6.11, Chapter 6).

### 2.3.6 Nyland Review (2014-2016)

In 2014, the Child Protection Systems Royal Commission, otherwise known as the Nyland Review, was established to investigate the laws, policies, practices, and structures in place for children at risk of harm, abuse or neglect. The final report, 'The life they deserve' was published in August 2016 with 260 wide-ranging recommendations. Relevantly, the following recommendations were made in relation to the education of students in care:

- (89) Improve the profile of Strategies for Managing Abuse Related Trauma (SMART) training for educational staff, requiring that to be part of professional development where appropriate.
- (90) Review and promote Education's policies regarding school suspension, exclusion and expulsion to ensure that they are used as strategies of last resort for children in care.
- (91) Regularly conduct an audit of children in care who are on reduced hours of attendance at school and ensure they have plans to re-engage them in mainstream education.
- (92) Require Education to fund any in-school support needed by children in care.
- (93) Recruit and train a panel of school services officers to support children with trauma-related behavioural challenges. (Nyland, 2016, xxxvii)

As of September 2019, the SA Department for Education noted the following had been implemented in response to the above recommendations:

- 'improved the profile of SMART training' and committed to 'continue to evaluate and improve SMART training.'
- Completed a 'draft Behaviour Support Policy to emphasise safe inclusion of children and young people and exclusionary responses as strategies of last resort for all children'.
- Commenced analysis of suspension, exclusion and expulsion data for 'children in care to inform future policy and practice approaches to reduce the numbers of children in care who experience suspensions, exclusions and expulsions'.
- Commenced a 'full review of the Department for Education procedures for suspension, exclusion and expulsion'.
- Established a regular schedule of audits, and analysis to inform the re-engagement of children in care in their education.
- Accepted recommendation 92, with all in-school support required by children in care now funded by the SA Department for Education.

- Three agencies were appointed to a panel of preferred suppliers to provide professional development and training to improve evidence-based trauma-informed practices.
- 25 school-based and support services personnel had commenced a Graduate Certificate in Developmental Trauma.
- 113 preschools and schools had commenced engagement in the Trauma Aware Schools initiative. (SA Department for Education, *Recommendation update*, 2019).

### 2.3.7 Select Committee Inquiry – Students with Disability (2015-2017)

In June 2015, a Select Committee of the Legislative Council was established to conduct an inquiry into access to the South Australian education system for students with disability. The final report, referred to as the Select Committee Report was published in May 2017 and included a range of recommendations including the following in relation to suspensions and exclusions:

- Education authorities should provide clear policies around suspension and exclusion, including day suspension or ‘take homes’ (where a parent is requested to take a student home for the remainder of the day).
- DECD should consult with stakeholders and the community to understand the impact of current policies regarding suspensions and exclusions, and should devise a more appropriate response to breaches of conduct in schools.
- The DECD needs to rewrite all policies regarding suspensions and exclusions in a child-centred way, such that behaviour is understood as a manifestation or communication of what is happening for the student.

Policies should ensure that schools:

- Accept their responsibility, whenever possible, to ‘see out the day’ if it has accepted the student at the beginning of the day
- Do not use exclusion or suspension from school as a default behaviour management strategy for students with disability and challenging behaviours
- Demonstrate that they have developed and implemented formal behaviour support plans before any moves to exclude/suspend a student with disability from school
- Disability and education standards are reflected (Select Committee Report, 2017, p. 13)

The Select Committee heard evidence from a wide range of witnesses and made recommendations to improve policy and practices relevant to all stages across the life course of a student’s school journey. Several recommendations from that Inquiry are highly relevant to the current inquiry and will be considered throughout this report. As shown in Chapter 8, students with disability receive the largest proportion of take homes, suspensions and exclusions from South Australian government schools. They also account for a high proportion of students receiving attendance exemptions, enrolled in part-time programs, OpenAccess, and Flexible Learning Options (Chapter 9). Furthermore, while the Select Committee Inquiry was limited to students with disability, the evidence heard and recommendations made have relevance beyond this cohort of students.

### 2.3.8 Legislative and policy reform

These inquiries have heavily influenced the evolution of education policy and practice in South Australia, setting the foundations for a roadmap of continuous improvement in meeting the

rights, needs and interests of all students. In recent years, the SA Department for Education has invested in several education policy and practice reforms which provide a roadmap for continuous improvement towards a world-class education system. In 2018, the Department released a school and preschool improvement model that is aimed at improving educational outcomes for every student as part of a broader ambition to transform South Australia's public education into a world-class model by 2028. Since 2018, the school improvement model has been focused on providing schools with clear direction around planning, data provision and literacy and numeracy advice to support the development of school improvement plans intended to drive a cycle of continuous improvement tailored to the needs of individual school communities.

In December 2018, the *Aboriginal Education Strategy: 2019 -2029* was also released, which aims to support improved learning outcomes for Aboriginal children and young people, increased attendance and retention rates, and more culturally responsive education practices. We note first that the use of exclusionary discipline is not mentioned in the Aboriginal Education Strategy, nor are specific targets and measures to monitor and reduce its use recommended, despite the overrepresentation of Aboriginal students and the impact of exclusionary discipline on student engagement and attendance (see Section 3.5.5). Second, we note that the publicly available information on school improvement objectives and processes is limited and does not appear to engage with the breadth of practice domains necessary for the SA Department for Education to achieve its stated aim of providing a world-class education to students in South Australia by, for example, engaging in systemic inclusive school reform and implementing a comprehensive system-wide Multi-Tiered Systems of Support (MTSS) as adopted in multiple US states (see Section 4.2.2).

Most recently, simultaneous with this Inquiry, the new *Education and Children's Services Act 2019* (SA) and *Education and Children's Services Regulations 2020* (Government of South Australia [Attorney-General's Department], 2020a) were passed and commenced on 1 July 2020. Changes included:

- students responsible for chronic bullying and serious assaults can be moved to a different school.
- improved information sharing between schools and other government and non-government authorities to support the safety and wellbeing of children.
- tougher penalties for non-compliance with enrolment and attendance requirements, and new family conferencing processes to address chronic non-attendance.
- greater clarity regarding the factors that principals must take into account before making a decision to suspend, exclude or expel a student, adding an explicit requirement that principals consider the extent to which adjustments have been made to support the participation of the student, or students with a disability generally at the school.

Relevant amendments are considered further in Chapter 4. During the process of passing the new *Education and Children's Services Act 2019* (SA), it was agreed that a separate independent Inquiry would be commissioned to investigate the use of suspensions, exclusions, and expulsions. As a result, the Minister for Education, the Hon. Minister John Gardner, established the Terms of Reference to this Inquiry. The following chapters of this report build upon the previous Inquiries and reforms considered above and set out a roadmap for further reform to support the development of policies and procedures that align with contemporary best practice and human rights principles.

### 3 INTERNATIONAL CONVENTIONS, LEGISLATION AND POLICY


School discipline processes operate within a complex legal and policy framework. This includes a range of policy and legal instruments at the international, national, and state level that establish a range of rights and responsibilities for education providers, students, and parents or carers. These also operate within a broader framework of ethical responsibilities and duties derived from common law sources. The legal requirements established under international, national, and South Australian law and policy apply at all levels, including to executive members of relevant departments, regional staff, and to individual principals, teachers, and support staff. This chapter provides an overview of the obligations and fundamental principles established under international instruments that are relevant to take homes, suspension, exclusion and expulsion processes and rights to inclusive education. National and South Australian legislative and policy instruments are also considered as they relate to the use of take homes, suspensions, exclusions, and expulsions. In doing so, this Chapter sets the foundation for the rest of this report by establishing the current position of South Australia’s legal and policy landscape, and the starting point for a roadmap to support the gradual realisation of standards of best practice set by the international community and to promote the SA Department for Education’s ambition to establish a world-class education system by 2028.

#### 3.1 INTERNATIONAL INSTRUMENTS

Australia has signed and ratified several international human rights instruments relevant to the provision of education and decision-making regarding suspension, exclusion, and expulsion of students. These include the United Nations Convention on the Rights of the Child (CRC) (United Nations, 1989) and the United Nations Convention on the Rights of Persons with Disabilities (CRPD; United Nations, 2008). These instruments establish fundamental rights of children and young people to inclusive education and impose various responsibilities on government departments responsible for the provision of education services. Australia has also signed and ratified the United Nations International Covenant on Economic, Social and Cultural Rights (ICESCR; United Nations, 1976) including Articles 13 and 14 regarding the right to education, and has expressed a commitment to the United Nations Sustainable Development Goals, which include a commitment to provide inclusive, safe and effective learning environments for all students (United Nations, 2015: Sustainable Development Goal 4). In 2009, the Australian Government also announced its support for the United Nations Declaration on the Rights of Indigenous Peoples (United Nations, 2007a) which recognises the rights of indigenous peoples to enjoy all rights on an equal basis without discrimination, including the right of children to all levels and forms of education of the State without discrimination (Article 14).

Table 3.1. *International Human Rights instruments*

Year	Relevant United Nations declarations and conventions
1976	International Covenant on Economic, Social and Cultural Rights (ICESCR)
1989	Convention on the Rights of the Child (CRC)
2007	Declaration on the Rights of Indigenous Peoples (UNDRIP)
2008	Convention on the Rights of Persons with Disabilities (CRPD)
2015	Sustainable Development Goals
2016	General Comment No. 4 on Article 24 of the CRPD on the Right to Education



Together, these instruments set minimum standards that the international community expects to be upheld in the best interests of children and young people, and which the Australian Government and state and territory governments are obliged to uphold under international human rights law. These international instruments make clear that the standards established under these instruments are not merely aspirational but should be progressively woven into national and state (or territory) legislation and policy.

While Australia has signed and ratified, or otherwise expressed a commitment to the above instruments, the obligations and standards established under these instruments are not necessarily reflected in domestic law and policy. However, regardless of the extent to which they are enacted in domestic law and policy, there remains a legitimate expectation that government departments should comply with these obligations and standards. Ratification of the CRC and CRPD by the Australian government requires that public officials, including the SA Department for Education and its staff, act in accordance with the standards set by these instruments (Child Rights International Network, 2019; Groves, 2008; Patel, 2010), and that they implement immediate reform to achieve progressive realisation of these best practice standards.

Understanding the history of human rights and the development of education as a human right is also helpful to understand current international standards for inclusive education. This history is not considered in detail in this report as it has been explored at length in recent literature (Davis et al., 2020, pp. 79-90) and similar inquiries in other jurisdictions, and is also considered in the Committee on the Rights of Persons with Disabilities (CRPD Committee) General Comment No. 4 to Article 24: Right to Education (United Nations, 2016), the relevance of which we discuss later in Section 3.1.3.

### 3.1.1 Convention on the Rights of the Child

Adopted by the United Nations in 1989, the CRC mandates governments to assure the right to education and the right to non-discrimination. It obligates governments to ensure free and compulsory education is available and accessible on the basis of equal opportunity with the ‘best interests of the child a primary consideration’ (United Nations, 1989, Article 3). The CRC also obligates governments to ensure a child’s access to other rights while engaged in education, such as the right to protection from discrimination (Article 2) and the right to protection from violence (Article 19).

The CRC also requires governments to ‘take measures to encourage regular attendance at schools and the reduction of drop-out rates’, and to ‘take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child’s human dignity’ and in a manner that promotes the child’s best interests (United Nations, 1989, Article 28). The CRC obligates governments to ensure school discipline is employed in a manner that promotes children’s rights to education and the achievement of their fullest potential.

The CRC recognises that the right to education is a gateway right, in that equal access to quality education is necessary to foster the ‘development of the child’s personality, talents and mental and physical abilities to their fullest potential’ (United Nations, 1989, Article 29) and for students with disability, education should be provided in a manner that is ‘conducive to the child’s achieving the fullest possible social integration and individual development’ (United Nations, 1989, Article 23). In so doing, the CRC recognises that education is a means to the realisation of other rights, as it promotes the child’s ability to recognise and enact other rights



and freedoms, and provides the necessary capabilities for full and meaningful participation in modern society (Gillett-Swan & Thelander, forthcoming). This is also reflected in Article 24 of the CRPD (United Nations, 2008), and Article 13 of the ICESCR (United Nations, 1976).

### 3.1.2 Declaration on the Rights of Indigenous Peoples

The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) was adopted by the United Nations on 13 September 2007 in recognition of the need to respect and promote the inherent rights of indigenous peoples, and to enshrine rights that reflect minimum standards for the dignity and wellbeing of indigenous peoples of the world. While Australia was among only four countries to vote against its adoption in 2007, Australia subsequently adopted the UNDRIP on 3 April 2009 following a change in government and accepted it as a framework for improving recognition and protection of the rights of Aboriginal and Torres Strait Islander peoples across Australia.

Relevantly, the UNDRIP recognises the right of indigenous families and communities to retain shared responsibility for the upbringing, training, education and wellbeing of their children, consistent with the rights of the child (United Nations, 2007a). The UNDRIP contains a number of articles relevant to the provision of education. In particular, Article 14 states:

1. Indigenous peoples have the right to establish and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning.
2. Indigenous individuals, particularly children, have the right to all levels and forms of education of the State without discrimination.
3. States shall, in conjunction with indigenous peoples, take effective measures, in order for indigenous individuals, particularly children, including those living outside their communities, to have access, when possible, to an education in their own culture and provided in their own language.

The UNDRIP also recognises the right, without discrimination, to the improvement of economic and social conditions, including in the areas of education (United Nations, 2007a, Art 21). These rights recognise the significant potential to promote the rights and interests of Indigenous peoples through improved access to education, on an equal basis with all others. In Australia, the need to address educational access and attainment of Aboriginal and Torres Strait Islander people in primary and secondary education has been well documented, including in reports such as *Our children, our future: Achieving improved Primary and Secondary education outcomes for Indigenous Students* (Doyle & Hill, 2008), the *Melbourne Declaration on Educational Goals for Young Australians* (Ministerial Council on Education, Employment, Training and Youth Affairs, 2008), and more recently in the *Australian National Aboriginal and Torres Strait Islander Education Strategy 2015* (Education Council, 2015).

These documents recognise the importance of addressing educational disparities between Indigenous and non-Indigenous Australians, including in relation to enrolment, attendance, participation, literacy, numeracy, retention, and school completion. Critically, programs or frameworks that promote equal educational access for Aboriginal and Torres Strait Islander students must be founded on the right to self-determination, informed by the practice, language and culture of indigenous peoples, and promote the right of indigenous peoples to be actively engaged in the education of the student (United Nations, 2007a).

### 3.1.3 Convention on the Rights of Persons with Disabilities

The Convention on the Rights of Persons with Disabilities (CRPD) was formally adopted by the United Nations in 2006 and entered into force in May 2008. The development of the CRPD followed 30 years of activism by people with disability. People with disability were involved at all stages of the CRPD's development (Kayess & French, 2008). The CRPD covers all aspects of the human experience and assures that the human rights and fundamental freedoms for all persons with disability are protected, without discrimination of any kind on the basis of their disability (Davis et al., 2020).

The CRPD is the first international human rights treaty to explicitly state the right to inclusive education, through Article 24: Education (Davis et al., 2020; Graham et al., 2020a). The Australian government ratified the CRPD in 2008 and is legally bound to uphold its terms. Article 24 of the CRPD outlines the right of persons with disability to education, and explicitly recognises and protects the right to *inclusive* education. Article 24.1 states:

States parties recognise the right of persons with disabilities to education. With a view to realising this right without discrimination and on the basis of equal opportunity, States parties shall ensure an inclusive education system at all levels. (United Nations, 2008)

Article 24.2 provides further obligations on States parties to ensure:

- (a) Persons with disabilities are not excluded from the general education system on the basis of disability and that children with disabilities are not excluded from free and compulsory primary education, or from secondary education, on the basis of disability,
- (b) Persons with disabilities can access an inclusive, quality and free primary education and secondary education on an equal basis with others in the communities in which they live,
- (c) Reasonable accommodation of the individual's requirements is provided,
- (d) Persons with disabilities receive the support required, within the general education system, to facilitate their effective education,
- (e) Effective individualised support measures are provided in environments that maximise academic and social development, consistent with the goal of full inclusion. (United Nations, 2008)

These requirements must be interpreted and enacted in a manner that is compatible with the best interests of the child (United Nations, 2008, Article 7), and with the general principles in Article 3, which require respect for inherent dignity, non-discrimination, full and effective participation and inclusion in society, equality of opportunity, accessibility, and respect for the evolving capacities of children with disabilities (United Nations, 2008).

#### 3.1.3.1 General Comment No. 4 on Article 24: Right to Education

On 26 August 2016, the CRPD Committee adopted General Comment No. 4 to Article 24: Right to Education, which provides comprehensive and authoritative guidance to governments regarding their obligations to implement inclusive education, including the core principles and features of an inclusive education system (United Nations, 2016). The core principles are that inclusive education:

1. Is a fundamental right of all learners,
2. Is undergirded by a valuing of student well-being and respect for their autonomy and dignity,

3. Operates as a means by which other human rights and an inclusive society can be realised, and
4. Is the consequence of an ongoing process of eliminating the barriers which would obstruct the right to education.

The nine features include:

- (i) Whole systems approach
- (ii) Whole educational environment
- (iii) Whole person approach
- (iv) Supported teachers
- (v) Respect for and value of diversity
- (vi) Learning-friendly environment
- (vii) Effective transitions
- (viii) Recognition of partnerships
- (ix) Monitoring

These principles and features have been used to inform the Queensland Inclusive Education Policy, which was released in 2018 following the Deloitte Disability Review (Graham, 2020).

The concepts and processes outlined in General Comment No. 4 should be used as authoritative guidance to policymakers and educators for operationalising best practice inclusive education, including in the transformation of legislation, policy, and mechanisms for financing, administration, design, delivery and monitoring of education practices and procedures (United Nations, 2016, para 9).

General Comment No. 4 has broken new ground by not only defining inclusive education but also defining three common models of provision that are incompatible with it: 'segregation', 'integration' and 'exclusion'.

Table 3.2. Key definitions from General Comment No. 4 (United Nations, 2016, para 11).

Concept	Accepted definition
<i>Inclusion</i>	Involves 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 of the relevant age range with an equitable and participatory learning experience and environment that best corresponds to their requirements and preferences. Placing students with disability in regular classes without appropriate structural changes to, for example, organisation, curriculum and teaching and learning strategies does not constitute inclusion.
<i>Exclusion</i>	When students are directly or indirectly prevented from or denied access to education in any form.
<i>Segregation</i>	When the education of students with disabilities is provided in separate environments designed or used to respond to a particular or various impairments, in isolation from students without disabilities
<i>Integration</i>	A process of placing persons with disabilities in existing mainstream educational institutions, as long as the former can adjust to the standardised requirements of such institutions.

While neither the CRPD or General Comment No. 4 explicitly consider the use of suspensions, exclusions and expulsions, the fundamental principles of inclusive education established in these instruments, including those summarised below are instrumental to ensure an inclusive education for all students, reducing the need for disciplinary responses to student behaviours. Supporting access to education through the provision of modifications and accommodations (known as adjustments in Australian legislation) is highly relevant to this Inquiry for the failure to provide these can result in student distress and the emergence of behaviours that can become subject to exclusionary discipline. States parties are required to ensure the progressive implementation of a comprehensive and coordinated legislative and policy framework founded on clear legislative and policy statements that promote inclusive education principles and practice. This should include:

- A clear definition of inclusion and the specific objectives it seeks to achieve at all educational levels
- A substantive right to inclusive education as a key element of the legislative framework
- Introduction of accessible monitoring mechanisms to ensure that policy, together with the requisite investment, is implemented
- All legislation that potentially impacts upon inclusive education within a country should clearly state inclusion as a concrete goal
- Introduction of comprehensive quality standards for inclusive education. (United Nations, 2016, para 61)

#### 3.1.4 Sustainable Development Goals

The 2030 Agenda for Sustainable Development, which was adopted by all United Nations Member States in 2015, provides a global blueprint for sustainable development in 17 key areas (Sustainable Development Goals), including education. Sustainable Development Goal 4 seeks to ensure inclusive and equitable quality education and promote lifelong learning opportunities for all. Australia has demonstrated a commitment to the SDGs, and published the first Voluntary National Review of the Sustainable Development Goals in 2018 (Australian Government, Report on the Implementation of the Sustainable Development Goals) which acknowledged:

- the importance of government funding for schools, including funding focused on supporting vulnerable groups such as students with disabilities.
- access to quality education opportunities can be more challenging in rural and remote communities, which disproportionately impacts on Aboriginal and Torres Strait Islander communities.

The Sustainable Development Goals reinforce the international community's commitment to ensuring access to inclusive education for all children and young people on an equal basis without discrimination.

## 3.2 CORE OBLIGATIONS UNDER INTERNATIONAL INSTRUMENTS

### 3.2.1 Non-discrimination and reasonable accommodations

The right to education must be assured without discrimination on the basis of equality of opportunity (United Nations, 2008, Article 3; United Nations, 2016, para 1). This includes the right not to be segregated (United Nations, 2016, para 12(c)), and the right to be provided with

reasonable accommodations (United Nations, 2008, Article 24(2)). Policies at the national and state level must be committed to providing reasonable accommodations. Importantly, ‘the duty to provide reasonable accommodation is *immediately applicable* and not subject to progressive realisation’ (United Nations, 2016, para 30, emphasis added).

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**Reasonable accommodations** are modifications or adjustments to tasks, environment or the way things are usually done that enable students with disability to participate in education programs on an equal basis with their peers.

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Further, the provision of reasonable accommodations (known as reasonable adjustments in Australian legislation, considered below at 3.3.2) must not be conditional on a diagnosis, but rather should be targeted at overcoming socially-constructed barriers to inclusion to ensure each student has equitable access to education, which should be supported by a framework of early identification, assessment and support (United Nations, 2016, para 61). Implementation of reasonable accommodations must also be preceded by consultation between the school, parents or carers where appropriate, and the student (depending on their age and capacity) to ensure ‘the accommodation meets their requirements, will, preferences and choices’ (United Nations, 2016, para 29).

What is a ‘reasonable’ accommodation or adjustment will vary according to context, including consideration of the effectiveness of the adjustment in supporting the student’s disability, whether, as mentioned above, the student and/or their family were consulted in relation to the adjustment, the cost versus benefits of providing the adjustment, and whether the adjustment impacts the integrity of a credential being awarded as part of the course of study. Sometimes education providers emphasise only two of these aspects: the cost of providing adjustments and the impact on the academic integrity of the adjustments. While education providers might argue they do not have the staffing necessary to meet a student’s learning requirement, this is not a reasonable justification for failing to provide an adjustment or accommodation. Evidence from court decisions indicates that assessing reasonableness must not give primacy to the availability or efficient use of resources (Poed, 2016).

Fundamentally, the assessment of a reasonable adjustment in Australian schools must be based on human rights standards considering the overarching obligation to ensure equitable access to inclusive education (Poed, 2020). The primary question for consideration is what adjustments are necessary to ensure that the individual student can access learning on the same basis as their peers. The answer to this question extends beyond looking at the student and expecting them to adapt to the environment. The question of reasonableness considers not just the benefit the student receives from the adjustments provided but the benefits that others may also receive when adjustments are made. A solution to the question of adjustments and their reasonableness can be found in the practice of universal design.

### 3.2.2 Universal design

Universal design enables governments to ensure physical accessibility (e.g., accessible infrastructure), as well as accessible pedagogy and assessment through principles of Universal Design for Learning (*UDL*). According to the CRPD Committee, UDL is:

...a set of principles, providing teachers and other staff with a structure to create adaptable learning environments and develop instruction to meet the diverse needs of all learners. It recognizes that each student learns in a unique manner and involves developing flexible ways to learn: creating an engaging classroom environment; maintaining high expectations for all students, while allowing multiple ways to meet expectations; empowering teachers to think differently about their own teaching; and focusing on educational outcomes for all, including those with disabilities. (United Nations, 2016, para 25)

General Comment No. 4 compels States Parties to adopt accessible curricula, remove standardised assessments in favour of more flexible assessment processes that recognise individual progress, and supporting teaching staff to implement and adjust pedagogy to meet the requirements of individual students.

### 3.2.3 Supported teachers and teacher capability

While legislation and policy must set clear expectations for the implementation of inclusive education, effective implementation of such a framework depends on the availability of support to and investment in the skills of teaching staff. Teaching staff must be supported to understand and implement inclusive practices with fidelity. The CRPD Committee recognised that a 'lack of understanding and capacity remain significant barriers to inclusion' (United Nations, 2016, para 35), and emphasises in General Comment No. 4 that all teaching staff should be supported to access education and training aimed at building competencies to implement inclusive learning environments based on the human rights model of disability (United Nations, 2016, para 12(d)). Specifically, the CRPD Committee states that:

The core content of teacher education must address a basic understanding of human diversity, growth and development, the human rights model of disability, and inclusive pedagogy including how to identify students' functional abilities - strengths, abilities and learning styles - to ensure their participation in inclusive educational environments. (United Nations, 2016, para 69)

### 3.2.4 Inclusion in decision-making

The right of the student and their parent or carer (where appropriate) to be included in decision-making about the student's education is embedded throughout General Comment No 4. Fundamentally, 'all students must feel valued, respected, included and listened to' (United Nations, 2016, para 12(e)). While the best interests of the child must be a primary consideration in all decisions, any determination of best interests must consider the child's own views and preferences where practicable (United Nations, 2016, para 45). This is reinforced in Article 12 of the CRC, which requires States Parties to assure that any 'child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child' (United Nations, 1989).

While the right to education is recognised as the right of the child, not the right of a parent or caregiver, General Comment No. 4 encourages effective partnerships with parents and caregivers in recognition of their special expertise and understanding of the student's support needs and preferences (United Nations, 2016, paras 12(h), 64, 70). Partnerships should also extend to the broader community in recognition of the resources and strengths these partnerships may bring to ensuring a community-based approach to inclusive education (Tancredi et al., 2020).

### 3.2.5 Appeal rights and complaints

Students and their parents or caregivers must have access to an appropriate and independent appeals and complaints system for redress when the right to inclusive education is not being met, and to protect against discrimination. General Comment No 4 to the CRPD states that:

States parties must introduce independent, effective, accessible, transparent, safe and enforceable complaints mechanisms and legal remedies in cases of violations of the right to education... States parties must also ensure that information about the right to education itself, and how to challenge denial or violations must be widely disseminated and publicized. (United Nations, 2016, para 63)

### 3.2.6 Disaggregated education data

Article 31 of the CRPD compels States Parties to ensure they have appropriate mechanisms for collecting appropriate disaggregated data in relation to access to inclusive education as required under Article 24. Data collection must be sufficient to ensure departments can formulate informed policies, procedures, and programs necessary to meet obligations under Article 24, and to measure progress towards achievement of an inclusive education system (United Nations, 2016, para 66).

### 3.2.7 Progressive Realisation or Immediate Implementation?

The CRC and CRPD recognise that States Parties are unlikely to have the necessary systems to give immediate effect to all rights. Rather, the CRPD notes that States Parties have an obligation to ensure the progressive realisation of rights by moving ‘as expeditiously and effectively as possible’ towards full implementation of the CRPD (United Nations, 1990, para 9), including through redefining budgetary allocations for education (United Nations, 2016, para 39). However, General Comment No. 4 notes that some obligations require immediate implementation, including the duty to provide reasonable accommodations, and non-discrimination in all aspects of education (United Nations, 2016, para 40).

## 3.3 COMMONWEALTH LEGISLATION AND POLICY

Australia is a federated nation meaning the regulation of education involves a combination of Commonwealth and South Australian legislation and policy. This includes a complex framework of legislation and policy relating to education, discrimination, workplace health and safety, privacy, and crime, as well as principles at common law relating to an overarching duty of care to students and staff.

At the Commonwealth level, the *Disability Discrimination Act 1992* (Cth) (‘DDA’) and the *Disability Standards for Education 2005* (Cth) (‘DSE’) provide a regulatory framework that prohibits discrimination on the basis of disability in education settings, to ensure students with disability are treated no less favourably than their peers. The Alice Springs (Mparntwe) Education Declaration (December 2019) (‘Mparntwe Declaration’) also creates an overarching policy commitment at the national level to support the development of a world class education system.

### 3.3.1 Mparntwe Declaration

In December 2019, all Australian Education Ministers made the Mparntwe Declaration to set out a commitment to improving educational outcomes for all young Australians. It establishes

a vision for 'a world class education system that encourages and supports every student to be the very best they can be, no matter where they live or what kind of learning challenges they may face,' and challenges education departments across Australia to turn the aspirations set out in the declaration into actions and educational reform to give all young Australians equal access and opportunity through education. It recognises that learning is a partnership with parents, carers and others within the community, and commits to ensuring that all young Aboriginal and Torres Strait Islander students thrive in their education and all facets of life.

The Mparntwe Declaration has two interconnected goals:

1. The Australian education system promotes excellence and equity.
2. All young Australians become confident and creative individuals, successful lifelong learners, and active and informed members of the community.

To achieve these goals, it also describes a commitment to action, requiring all Australian governments to commit to action in various inter-related areas including:

- Developing stronger partnerships.
- Supporting quality teaching and leadership.
- Building foundational skills in the primary school years
- Enhancing middle years development.
- Supporting senior years of schooling.
- Supporting Aboriginal and Torres Strait Islander learners to reach their full potential.
- Supporting all young Australians at risk of educational disadvantage.
- Strengthening responsibility mechanisms with strong, meaningful, accountable and transparent measures.

The Mparntwe Declaration also describes the critical importance of good quality data to support equity of access to education and to develop a substantive evidence base on what works. These goals, and commitments to action should inform reform activities across all education departments. To support the commitment to these goals and actions are sustained, a national forum is convened biennially the Council of Australian Governments Education Council with education stakeholders, working in partnership with young Australians, their families and carers, and the broader community. We note that the Mparntwe Declaration neglects to explicitly address students with disability and the importance of inclusive practice for enabling access and participation as per the *Disability Discrimination Act (Cth.)* and *Disability Standards for Education 2005*, which is a significant oversight.

### 3.3.2 Disability Discrimination Act 1992 (DDA)

The DDA is intended to eliminate, as far as possible, discrimination against persons on the grounds of disability in education, the provision of services, and in existing laws, to ensure that persons with disabilities have the same rights to equality before the law as the rest of the community (DDA, s 3). It also serves an educative purpose by promoting greater acceptance within the community of the principle of equality before the law (DDA, s 3(c)).

The DDA makes it unlawful for an education authority to discriminate against a student on the basis of their disability. This includes, for example, decision-making about admission to a school, student access to benefits or programs, decisions to suspend, expel or exclude a student, and the development or accreditation of school curricula (DDA, s 22).



### 3.3.2.1 *Broad definition of 'disability'*

The DDA provides a broad definition of 'disability'. It is not necessary for the student to have a confirmed or diagnosed disability to be protected by discrimination legislation. Disability includes diagnosed disabilities, but also includes 'disorders' or 'malfunctions' that result in a student learning differently from others, and 'disorders', 'illnesses' or 'diseases' that affect a student's thought processes, perception of reality, emotions or judgment or that results in 'disturbed behaviour' (DDA, s 4). Further, the disability need not currently exist. The DDA applies where a disability previously existed, or may exist in the future (for example, because of a genetic disposition). It also applies to a disability that may be imputed, for example, where a school believes the cause of a student learning or behaving differently to their peers may be from an undiagnosed disability (Poed, 2020).

This definition is broad enough to cover many students with learning disabilities, behavioural disorders and mental illness who may otherwise not be eligible for individually targeted funding under programs that rely on evidence of a diagnosis within a narrow group of categories (de Bruin et al., 2020). Notably, from 14 October 2019 the SA Department for Education's revised funding model, the Inclusive Education Support Program (IESP), is intended to ensure access to supports or adjustments on the basis of functional need rather than diagnosis, consistent with definitions under the DDA and the Nationally Consistent Collection of Data on School Students with Disability ('NCCD') (SA Department for Education, 2019).

### 3.3.2.2 *Direct and indirect discrimination*

There are two types of discrimination that are regulated under the DDA: direct discrimination and indirect discrimination. In a school context, a student is directly discriminated against on the grounds of disability if, because of their disability, they are treated less favourably than a student without disability would be treated in similar circumstances (DDA, s 5). This includes failing to make reasonable adjustments for the student (DDA, s 5(2)) or, for example, refusing a student's enrolment on the basis of their disability, or refusing to allow the student to participate in education activities on the basis of their disability (Poed, 2020). Indirect discrimination involves policies or practices that unintentionally result in disadvantaging a student with disability (DDA, s6). This might include, for example, policies that mandate all students to comply with a requirement that a student with disability is unable to do, or if they can only comply if a reasonable adjustment is made but the reasonable adjustment is not made.

### 3.3.2.3 *Special measures*

Section 45 of the DDA states that despite prohibiting discrimination on the basis of disability, the Act does not make it unlawful to do something that is reasonably intended to ensure a person with disability has equal opportunities with other persons, or has special access to facilities, services or programs to meet their individual needs. The DSE provides some clarity in the context of rights in education by stating that:

Special measures are intended specifically for the benefit of students with disabilities, and can take the form of programs or initiatives that afford students with disabilities, or with a particular disability, benefits, grants, programs, goods, or access to facilities, services or opportunities to meet their special needs in relation to education and training. However, providing specialised support services will not necessarily be sufficient to eliminate discrimination. (DSE, s 10.5(2))

The DSE, written in 2005, further states in reference to section 45 of the DDA that it is not ‘unlawful for an education provider to provide special measures (including specialised units or institutions) intended specifically for the benefit of students with disabilities’ (DSE, s 10.5). However, this provision of the DSE must be read in the context of its surrounding provisions and the purpose of the DSE and DDA. As noted above, the objects of the DDA include ‘to eliminate, as far as possible, discrimination against persons on the ground of disability,’ and ‘to promote recognition and acceptance within the community of the principle that persons with disabilities have the same fundamental rights as the rest of the community’ (DDA, s 3). Furthermore, the DSE clearly states that the special measure must be intended specifically ‘for the benefit of students with disabilities’ (DSE, s 10.5).

Recent literature regarding the impacts of segregated or special education settings challenge the notion that specialised units or institutions are of benefit to students with disability (Szumski et al., 2017). Numerous studies that have examined the impact of inclusive education collectively refute the claim that ‘students with disability are better off in segregated special settings’ (de Bruin, 2020, p. 58). Evidence suggests that segregated settings such as specialised units or institutions deprive students with disability of critical social and academic opportunities (Graham et al., 2016), and may be detrimental to long-term outcomes including postsecondary employment, pursuing further education or living independently (de Bruin, 2020). Furthermore, General Comment No. 4 on the right to inclusive education clearly indicates that segregation of students with disability is discriminatory (United Nations, 2016). Disability advocates have called for this section of the DSE to be repealed in light of General Comment No. 4 on the right to inclusive education. As the award-winning human rights advocate, Catia Malaquias (2020) notes, “just because something is legal doesn’t mean it complies with human rights”.

Primary focus should be given to parts 4 to 8 of the DSE which set out the legal standards with which education providers must comply. Accompanying each standard are measures which offer examples of actions schools might take to demonstrate their compliance. Schools are permitted to develop measures beyond those specified within the Guidance Notes. The key to determining whether these measures were reasonable is whether they allowed students with disability to access education on the same basis as their peers. These standards, inclusive education practices promoted in General Comment No. 4 and literature that is more recent than the DSE should be preferred over segregated settings for supporting equality of access and opportunity.

### 3.3.3 Disability Standards for Education (DSE)

The DSE came into effect in August 2005 and are reviewed every five years. To-date, they have been reviewed twice, in 2010 (Australian Government [Department of Education, Skills & Employment], 2015a) and in 2015 (Australian Government [Department of Education, Skills & Employment, 2015b) and consultation is currently underway for the 2020 Review of the Standards (Australian Government [Department of Education, Skills & Employment], 2020). The DSE are established under the DDA, which makes it unlawful for any person to contravene the DSE (DDA, s 32). The DSE provides guidance regarding the responsibilities of the SA Department for Education and education staff at all levels under the DDA, including in relation to enrolment (DSE, 2005, Standard 4), participation (DSE, 2005, Standard 5), the development, accreditation and delivery of school curricula (DSE, 2005, Standard 6), student support services (DSE, 2005, Standard 7), and elimination of harassment and victimisation (DSE, 2005,

Standard 8). It places strong emphasis on the obligation to consult with the student or an associate such as a parent or carer (see Gillett-Swan et al., 2020), and provides additional guidance in relation to the provision of reasonable adjustments under the DDA.

While the DSE was developed prior to and does not explicitly refer to 'inclusive education' as discussed in the CRPD and General Comment No. 4, the Standards do state that:

An education provider is required to make any decisions about admission, enrolment or participation on the basis that reasonable adjustments will be made where necessary so that the student with disability is treated on the same basis as a student without the disability. (DSE, 2005, Standard 2.2)

The DSE were published with an accompanying set of guidelines that outline for providers what they must do to comply with the Standards. The Standards are intended to shift the burden of ensuring that rights to education are respected to education providers by clarifying their obligations to proactively remove barriers to inclusion (Dickson, 2014). However, many schools still fail to meet their compliance obligations (Poed et al., 2020), and there remains no penalty under the Standards or the DDA for breaching these obligations. With reference to inclusive education, the Standards have been criticised as weak and outdated and there have been ongoing calls for their reform (D'Alessio et al., 2018; Poed, 2017).

The last review of the DSE in 2015 found that awareness and understanding of obligations under the DSE and DDA varies among education providers and educators. The 2015 review report presented 14 recommendations to improve compliance, ensure personalised support for students with disability, and improve the understanding and application of the DSE. The recommendations related to improving information for education providers, students and parents about disability supports on enrolment; clarification and exemplars of reasonable adjustments, consultation, and formal assessment processes; and improving complaints processes. This review of the DSE highlighted the necessity for education departments to ensure that inclusive education and obligations under the DDA and DSE are embedded into all aspects of educational policymaking, programs, and operations, as well as teacher training and professional development.

#### 3.3.3.1 *Reasonable adjustments and unjustifiable hardship*

Reasonable adjustments must be made to enable students with disability to participate and demonstrate their learning during classes, courses, and activities (in and outside school grounds) (Poed, 2020). For example, this may include making adjustments to the classroom or school environment, adjusting the content that is taught or the way that it is delivered, providing adjustments during assessments, or allowing the student access to specialist support services (such as interpreters, allied health professionals, visiting teachers or behavioural experts).

Providing adjustments is a form of positive discrimination, where students are given differential treatment so that education is provided equitably, and to ensure all students' access to an inclusive education. In considering what is reasonable, courts will balance the benefits to the student against costs. For example, in considering whether the appointment of a full-time teacher aide to assist a child's learning is reasonable, consideration should be given to how this may negatively impact the learner's rights. For example, provision of a full-time aide has been considered as potentially being detrimental to the achievement of *inclusive* education, in that "a full-time aide may diminish opportunities for the student to engage with peers during group work or play; a teacher may delegate responsibility for the learning program for that

student to the aide, thereby denying the student the benefit of access to the teacher as expert; or the teacher may delegate responsibility for home-school communication to the aide” (Poed, 2020). Indeed, in these cases courts have determined that such an adjustment is not reasonable.

The DDA also provides that a school may not be required to provide an adjustment if doing so would place an unjustifiable hardship or burden on the school (DDA, s29(a)). While the DDA notes that financial circumstances including estimated expenditure required to provide the adjustment may be relevant considerations in relation to what amounts to an unjustifiable hardship, it has been argued that financial or resourcing limitations will *rarely* be an *unjustifiable* hardship given most schools are part of a broader system with access to additional resourcing.

Critically, considerations around reasonableness and unjustifiable hardship must take into account the objects of the DDA and DSE, particularly fundamental principles aimed at eliminating discrimination. Principles of reasonableness and unjustifiable hardship should not be considered an absolute exemption to education providers’ obligations to provide inclusive education consistent with international human rights. For example, if claiming an adjustment would not be reasonable or would cause unjustifiable hardship, in all circumstances schools (and the SA Department for Education more broadly) still have a responsibility to demonstrate what other adjustments would be put in place to ensure a student’s learning requirements are still met, and their right to inclusive education is protected.

It is noted that concerns about the use of these principles, and failures to proactively implement reasonable adjustments to support inclusive education have been raised during recent reviews of the DSE, as well as in Hearings 1 and 7 of the current Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (DRC). It has also been noted that a lack of clear definitions of these terms has contributed to misunderstandings about educator’s obligations to provide adjustments to support inclusive education for all students (Children with Disability Australia, 2015). As noted above, consultation is currently underway on the 2020 Review of the Standards which may consider these issues further and provide additional guidance regarding reasonable adjustments and unjustifiable hardship in the context of international human rights obligations.

#### 3.3.4 Nationally Consistent Collection of Data on School Students with Disability (NCCD)

The NCCD is a policy framework intended to complement the implementation of the DDA and DSE by providing a framework for consistent collection of data about the adjustments being made for students with disability in Australian schools (Australian Government, 2020). Developed in 2010-2011, in consultation with education sectors around Australia (de Bruin et al., 2020), this approach to defining and identifying students with disability was designed to support school communities to better understand and provide the type and level of adjustments needed for students with disability to participate in learning on an equal basis with others. From a systems point of view this shift towards understanding student needs was critical to supporting the realisation of inclusive education. As de Bruin et al. (2020) note, ‘knowing the number and types of adjustments needed is more useful than a specific diagnosis of disability, because this can assist schools and departments to mobilise resources, invest in professional learning and appropriately manage workforce capacity’ (p. 129).

Following the 2011 Review of Funding for Schooling ('Gonski Review') (Gonski et al., 2011), and commencement of the *Australian Education Amendment Act 2017* (Cth), the NCCD became the foundation for a centralised resource-allocation model for the distribution of Commonwealth funding to support schools and departments meet the additional costs of supporting students with disability. The NCCD operates as an annual census through which schools provide data regarding the provision of reasonable adjustments to students with disability, which then is used to inform Commonwealth disability loadings for distribution to schools or departments. In so doing, the NCCD provides a system to encourage the provision of appropriate adjustments and establishes greater accountability on schools and departments to improve inclusive practices and compliance with obligations under the DDA and DSE.

Importantly, the NCCD is non-categorical and is informed by the definition of disability used by the DDA. This definition captures the full range of students with disability, unlike the various disability support programs developed by education providers. NCCD funding flows directly to Independent and Catholic schools, whereas state government education sectors still employ their own processes, many of which still use eligibility categories based on disability diagnosis. The SA Department for Education has recently revised their disability funding support program, now called the Inclusive Education Support Program (IESP) which is apparently informed by NCCD, however, the proportion of students receiving IESP funding remains significantly discrepant to the proportion of students counted as receiving adjustments through NCCD.

### 3.4 RELEVANCE TO TAKE HOMES, SUSPENSIONS, EXCLUSIONS AND EXPULSIONS

While this Inquiry considers the use of exclusionary discipline (including take homes) more broadly than in the context of students with disability, recent domestic and international research, and data considered later in this report demonstrate that this cohort of students are disproportionately impacted by these disciplinary measures. This evidence indicates suspensions and exclusions may be driven, at least in part, by gaps in understanding of student need and failures to provide appropriate educational adjustments to support a student's access to the curriculum and participation in education programs.

In this context, it is impossible to consider the adequacy of current legislative and policy frameworks around the use of suspensions, exclusions and expulsions without understanding and analysing the policies, procedures and practices in place to support school staff to identify and support students to engage in inclusive school programs. Failures to appropriately support students to access education are likely to significantly increase the use of disciplinary responses, as students may respond to this lack of support in a manner that may be perceived as a breach of school behaviour policies and procedures resulting in disciplinary responses such as suspension, exclusion or expulsion.

### 3.5 SOUTH AUSTRALIAN LEGISLATION AND POLICY

In South Australia, suspensions, exclusions, and expulsions in government schools are regulated under the *Education and Children's Services Act 2019* (SA), which was passed in August 2019 and commenced on 1 July 2020, along with the new *Education and Children's Services Regulations 2020* (SA) (Government of South Australia [Attorney-General's Department], (2020a)). While these legislative instruments represent that current legislative

framework relevant to this Inquiry, many of the practices observed in this report are likely to have occurred prior to these amendments. Therefore we also consider elements of the previous Act and Regulations throughout this report.

The relevant provisions of the *Education and Children's Services Act 2019* (SA) and *Education and Children's Services Regulation 2020* (SA) are considered in more detail below. The discharge of the functions and responsibilities within this legislative framework are guided by a set of overarching objects and principles of the *Education and Children's Services Act 2019* (SA). Relevantly, the objects of the *Education and Children's Services Act 2019* (SA) include:

- ensuring that education provided to children and students in South Australia is of a high quality.
- ensuring that children's services provided at children's services centres in South Australia are of a high quality.
- ensuring the development of an accessible range of education and children's services that meet the needs of all groups in the community.
- promoting the involvement of parents, persons other than parents who are responsible for children and other members of the community in the provision of education and children's services to children and students in South Australia.
- continuously improve the wellbeing and safety of children in South Australia.

Furthermore, the *Education and Children's Services Act 2019* (SA) states that the following principles must be taken into account in relation to the operation, administration and enforcement of the Act:

- the best interests of children and students is the paramount consideration.
- every child has a right to education.
- the cultural and religious diversity of the student population must be recognised.
- children and students should not be unlawfully discriminated against on the ground of their gender, mental or physical impairment, religion or race, nor that of their parents.
- the involvement of children, students, parents, persons other than parents who are responsible for children and other members of the community in relation to the education and development of children and students should be promoted.
- children, students, stakeholders and communities should be consulted in respect of decisions under this Act that may affect them.

The *Education and Children's Services Act 2019* (SA) and *Education and Children's Services Regulation 2020* (SA) are supported by a collection of SA Department for Education policies, some of which are accessible to students, parents and carers through the SA Department for Education website, and others which are only available to departmental employees. This policy framework provides additional guidance to government schools about the appropriate implementation of provisions relating to the use of suspensions, exclusions and expulsions, as well as other disciplinary measures, such as 'take homes'. It also provides procedures and guidelines relating to issues that are interwoven in decision-making regarding student discipline, including behaviour support policies, access to funding, risk management, complaints management, curriculum delivery, workplace health and safety, and policy and procedures relating to support for particularly vulnerable cohorts of students including students

with disability, aboriginal students and students in care. Also relevant are a range of other legislative and policy materials including anti-discrimination, workplace health and safety, and criminal law, some of which are not explored in significant detail here.

This legislative and policy framework is complex and multilayered. As a result, schools may often find themselves in complex legal and ethical scenarios requiring staff to reconcile apparently competing obligations. These issues are considered further in Chapter 4. What is critical is that these obligations must be translated into explicit, readily accessible procedures and guidelines to ensure schools and staff are able to understand and comply with their legal obligations in a manner that is as consistent as possible with the rights of all members of the school community, and in particular the rights of students.

### 3.5.1 Equal Opportunity

The *Equal Opportunity Act 1984* (SA) ('EOA') reinforces federal discrimination legislation by making it unlawful for an educational institution to discriminate on various grounds including sex, sexual orientation, gender identity or intersex status (section 37), race (section 59), age (section 85I), or a person's disability (section 74). A similar exception applies in that it is not unlawful to discriminate on the ground of disability in relation to the provision of access to or use of a place or facilities if the provision of that access or use would impose unjustifiable hardship (section 84). The EOA also enables the Equal Opportunity Commission to resolve complaints about discrimination. For example, a complaint may be made to the Equal Opportunity Commission about discrimination by the SA Department for Education. This is considered in more detail at Section 3.10 below.

### 3.5.2 School Attendance

The Act requires that every child of compulsory school age must be enrolled in a school, and makes it an offence for any person responsible for the child (e.g., a parent) to not ensure the child is enrolled (*Education and Children's Services Act 2019* (SA), s 68). A child is of compulsory school age if they are at least 6 years of age and less than 16 years of age (unless otherwise prescribed) (*Education and Children's Services Act 2019* (SA), s 3). A child who is 16 years of age must be enrolled in an approved learning program such as secondary education or accredited training and skills development courses (*Education and Children's Services Act 2019* (SA), s 69). Recent amendments to the *Education and Children's Services Act 2019* (SA) imposed tougher penalties where a student does not attend school or an approved learning program as required under the Act, including financial penalties up to \$5,000 for each person who is responsible for the child (*Education and Children's Services Act 2019* (SA), s68-69). While there are tough penalties for parents who fail to ensure a child attends school or an approved learning program, there are no similarly strict obligations on education providers to ensure a child remains at school or engaged in an approved learning program.

In 2020, the *Education and Children's Services Act 2019* (SA) also introduced a new family conferencing model intended to be held where a student is regularly absent from school or a learning program, in an attempt to improve their attendance and participation in learning.

Section 70 of the *Education and Children's Services Act 2019* (SA) provides that:

The purpose of a family conference ... is to provide an opportunity for a student and their family, in conjunction with the principal of a school or head of an approved learning program and a family conference coordinator, to make voluntary arrangements to

ensure the attendance of the student at the school, or the participation of the student in the approved learning program.

In parliamentary debate regarding the Education and Children's Services Bill, on 14 February 2019, it was noted that (Parliament of South Australia, 2019):

Family conferencing is designed to avoid further deterioration of relationships between the family and the school and department by empowering the family to participate in the development of a plan that addresses the problems in a way that focuses on the best interests of the child, and leverages all the supports available to them.

Given the recency of this new model, the Inquiry is unable to provide comment on its implementation or impact. However, the collaborative and relational foundations intended to underpin this model are notable and are considered further in this report in relation to processes for suspensions, exclusions and expulsions.

The SA Department for Education also has available on its website a collection of information and resources intended to support families to ensure school attendance, including support for families who find it difficult to get their child to school, and support for families to unpack issues where a child refuses to go to school because for example they do not like school or a teacher, learning is difficult, or they are being bullied at school (SA Department for Education, 2019). This information provides links to external supports and services available for families and encourages families to speak directly with their child's teacher or school at first instance to address any barriers to attendance. Other Department for Education policies and procedures that relate to a student's access to supports at school including behaviour supports, and complaints policy and procedure, are also available elsewhere on the public-facing Department for Education website.

### 3.5.3 Exemptions and part-time arrangements

The SA Department for Education may also provide temporary or permanent exemptions from school attendance requirements for individual students on grounds such as medical or other conditions, family travel or holidays, and full-time employment or training (e.g. TAFE, traineeship or apprenticeship) for students of compulsory education age (16 years and older). The process for exemptions is established under the 'Exemption from school procedure' (SA Department for Education, May 2019).

Temporary exemptions may be made to allow part-time attendance to support a student's transition back to full-time attendance, for example where a medical or psychological problem makes full-time attendance at school detrimental to their wellbeing. Importantly, part-time attendance arrangements are "not a process to legitimise non-attendance or truancy, and is only approved for genuine reasons which prevent full-time attendance, and only then with supporting evidence" (SA Department for Education, *Exemption from school procedure*, p. 9).

### 3.5.4 Supporting Student Engagement, Learning and Wellbeing

The SA Department for Education is responsible for managing student behaviour and creating safe, orderly, productive, and successful learning communities for all students. Suspensions, exclusions and expulsions are a type of disciplinary action which form part of a continuum of permissible responses to student behaviour. Decision-making about appropriate responses to student behaviour is informed by a range of legislative and policy sources. At a broad level this includes the Australian Student Wellbeing Framework, the National Quality Framework for Early



Childhood, Education and Care, and the Australian Professional Standards for Teachers/Principals. Also relevant are the DDA, the *Education and Early Childhood (Registration and Standards) Act 2011*, the *Teacher Registration and Standards Act 2004* (SA), the *Equal Opportunity Act 1984* (SA), the *Criminal Law Consolidation Act 1935* (SA), and the *Education and Children's Services Act 2019* (SA) and *Education Regulations*. The *Education and Children's Services Act 2019* (SA), *Education and Children's Services Regulation 2020* (SA) and the Department for Education operational policy framework offer more direct guidance to school communities in relation to student behaviour, behaviour supports and inclusive education. These are considered below.

#### **3.5.4.1 Protective practices for staff**

The SA Department for Education 'Protective practices for staff in their interactions with children and young people' ('Protective practice guidelines') provides guidance to staff and volunteers about how to build positive, caring and respectful relationships with children and young people in education and care settings (SA Department for Education, *Protective Practice Guidelines*, 2019). These guidelines speak to the duty of care to provide students with an adequate level of protection against harm (i.e., reasonable care to protect students from reasonably foreseeable risk of injury), as well as professional and role boundaries that should guide appropriate interactions with students. While not specifically relevant to decisions about suspensions, exclusions and expulsions, the guidelines establish professional boundaries about appropriate interactions with students and forms part of the broader framework of permissible staff responses to student behaviours. For example, it requires staff to use non-physical interventions wherever practicable in response to student behaviours that pose a risk to self or others and sets standards around the appropriate use of physical interventions where this is considered necessary. These standards are reinforced by expectations in other SA Department for Education policies and procedures that school staff will support positive, inclusive, and respectful student behaviours by modelling those behaviours themselves.

#### **3.5.4.2 School behaviour codes**

Each individual school must make available written policies or behaviour codes which capture the school community's values and expectations in relation to student behaviour, forms of unacceptable behaviour and the school's management of student behaviour. These should be aimed at ensuring the school will:

- Provide opportunities and support for students to succeed
- Support students to accept responsibilities for their own behaviour
- Work with staff, parents and students to create learning communities that support the rights of students to learn and the right of teachers to teach. (SA Department for Education, *Behaviour management and discipline*, 2019)

Each school's policies and practices should always be consistent with obligations under the DDA and DSE, and with policies and procedures set by the Department for Education.

#### **3.5.4.3 Behaviour support**

The Department for Education *Behaviour Support Policy* (SA Department for Education, July 2020) outlines how staff are expected to support safe and positive behaviour for children and young people in education settings. The stated purpose of the policy is to:

- ensure effective, consistent and fair behaviour support for children and young people across education, early childhood and care services in the department
- assist children and young people to be safely included and participate in learning in a positive way that respects other students and staff
- develop the personal and social capability of children and young people to understand and exercise their rights and responsibilities so that they are able to fully contribute in their learning environments, and to their wider community.

The Behaviour Support Policy recognises that student behaviours sit on a continuum ranging from positive, inclusive and respectful behaviours to challenging, complex and unsafe behaviours. Critically, it also recognises that:

...the relationship between a child/young person and a caring adult is the fundamental basis of all behaviour support. Children and young people are most likely to behave in a positive, inclusive and respectful manner when they are supported by a caring adult who models this behaviour, and who teaches, guides and supports the child/young person to do the same.

Consistent with human rights standards, the Behaviour Support Policy adopts an inclusive approach focused on identifying and supporting functional need to support positive and respectful behaviour, and recognises parents, caregivers, family members, community members, peers and professionals as partners in supporting positive behaviour.

The policy requirements set a best practice approach to supporting student behaviour by requiring behaviour support strategies to be directed at achieving seven (7) core functions:

- 1) promote, model, and support productive and positive behaviour
- 2) explicitly teach positive behaviour and expectations about behaviour
- 3) intervene by using the least exclusionary methods to prevent, reduce or redirect behaviours of concern
- 4) work with children, their families, professionals, and other key adults to understand the environmental, social, and family context of a child/young person's behaviours of concern, and to use the capacity of these parties to support positive behaviour change
- 5) provide visible, fair, and equitable behavioural responses that foster confidence and trust
- 6) repair and restore relationships that have been harmed by behaviours of concern
- 7) establish safety and wellbeing for people involved in behavioural incidents, and others.

The policy also provides the following obligations for departmental staff:

- model and promote behaviour that values diversity, demonstrates respect for and inclusion of all children and young people, and promotes a positive school climate.
- explicitly teach children and young people about safe and inclusive behaviours, and the core values of the school/preschool/care setting.
- support the participation of all students, taking special measures to support the inclusion of children and young people who are at higher risk of exclusionary responses to their behaviours (including Aboriginal children, children in care, and children with disabilities).

- participate in professional learning to build skills, knowledge and confidence in developing positive classrooms and recognising, responding to and managing behaviour incidents.
- work with parents, caregivers, families, service providers and the community to support children affected by behaviours of concern. This may include recovery from harm, restorative practices and supporting children to develop positive social relationships.
- report behaviours of a criminal nature to the South Australia Police.
- provide timely intervention in response to behaviours of concern, including incidents that have occurred out of school hours or off school premises when this is connected to the care and control of the school and impacts on school relationships.
- provide visible, consistent and planned responses to behaviours of concern to foster trust and confidence.
- support children and young people to be physically and psychologically safe. (Positive Behaviour Support policy, 2020, p. 4)

The policy further recognises that 'parents and families are their children's first and ongoing teachers' and that parents and families "shape and support their children's positive behaviours" (Behaviour Support Policy, 2020, p. 4). This policy is demonstrative of good practice in alignment with human rights principles and obligations under the DDA and DSE, fits well with a prevention science framework like that informing models like Multi-Tiered Systems of Support (MTSS), and should form a foundational pillar in the Department's future roadmap for legislative and policy reform to ensure all elements of the legislative and policy framework align with these standards. However it is also notable that the Behaviour Support Policy, while making reference to obligations under the DDA and DSE, does not provide explicit guidance to school staff about how to comply with these obligations including the obligation to consult with students with disability, to make reasonable adjustments, and to eliminate bullying and harassment. We note that lack of such explicit guidance in Queensland's Student Discipline Procedure was criticised in Hearing 7 of the Royal Commission into Violence, Abuse, Neglect and Exploitation against People with Disability (DRC).

#### 3.5.4.4 Student support services

The provision of behaviour supports including student support services and behaviour supports is maintained by the Department's Engagement and Wellbeing Directorate. The Behaviour Support Policy notes that the Directorate's role and responsibilities include maintaining and promoting effective behaviour support policy, procedure, and practice guidelines that reflect best practice, make sure this information is accessible to all departmental staff and the public, and support leaders to plan, implement and evaluate behaviour approaches that engage the whole school community (2020, 5). This work is supported by a Student Support Services Unit and Learning and Behaviour Unit, which provide specialist advice and services to support positive behaviours, including targeted and intensive behaviour interventions.

Education Directors and school leaders have responsibilities to ensure behaviour support policy and procedures are effectively implemented within schools, including by leading the creation and maintenance of a safe, inclusive and positive learning environment for all children and young people, and by developing the capacity of educators to plan and implement curriculum and pedagogy that supports the positive behaviour of children and young people and maximises

their wellbeing, engagement, intellectual challenge and achievement (2020, 6). These services are available to all students where there is a demonstrated need for additional support, including students with disability, Aboriginal students, and students in care (under the guardianship of the Department for Child Safety). Additional policies and procedures are also established to provide additional supports for these vulnerable cohorts.

#### 3.5.4.5 Adoption of the Phonics Screening Check


Current evidence indicates that systematic phonics instruction is an essential element of early reading instruction (Castles et al., 2018; Ehri et al., 2001). To ensure that all students learn to “crack the code” and have the means to access meaning from print, teachers need to be able to identify students who demonstrate early phonemic decoding and word recognition difficulties and facilitate timely, high-quality, evidence-based supports. Currently in Australia, not all states and territories offer universal phonics screening, meaning that some students who experience early reading difficulties are not provided with support on their journey to reading competence (Graham et al., 2020b). The phonics screening check, administered to all students following early reading instruction, is one way to identify students who require additional reading support (Wheldall et al., 2019).

The phonics screening check was first administered in the United Kingdom in 2012, and the SA Department for Education trialled this tool in 56 schools in 2017 (SA Department for Education, *Phonics screening check*, 2020). Since 2018, all Year 1 students in South Australian government schools participate in the phonics screening check. To support implementation of the check, the Department has provided extensive face-to-face training for educators and school leaders. To support the provision of high-quality, evidence-based reading instruction, the Department has provided early years teachers and some school services support officers with professional learning on the “Big 6” of reading instruction (phonemic awareness, phonics, vocabulary, reading comprehension, fluency, and oral language). These initiatives have seen the Department engage international experts including Professor Maryanne Wolf (SA Department for Education, 2018 *annual report*).

#### 3.5.4.6 Trauma Informed Practice

The impact of complex childhood trauma and the requirement for schools to adopt trauma-aware education frameworks has grown in recent years (Howard, 2019). Previous Inquiries, such as the DeBelle Royal Commission (2012-2013), have also highlighted the need for schools to know how to support students who have experienced complex trauma. The National Guidelines for Trauma-Aware Schooling outline guidelines for education systems, schools and early childhood providers (Queensland University of Technology & Australian Childhood Foundation, 2020). Across both sets of guidelines is the stated importance of high-quality, whole-of-system/staff training in trauma-aware schooling.

Since 2017, the SA Department for Education has invested in departmental trauma informed practice initiatives (SA Department for Education, 2018 *Annual Report*; SA Department for Education, 2019 *Annual Report*). Strategies for Managing Abuse Related Trauma (SMART) training (Australian Childhood Foundation, n.d.) has been provided to support staff to respond to the requirements of students who have experienced complex trauma, and to build confidence to apply developmentally appropriate strategies for self-regulation and learning.



The SA Department for Education has also invested in professional learning for staff on the Berry Street Education Model (BSEM), which aims to enhance outcomes for children who have experienced complex trauma, through increased capability of systems and communities. A recent evaluation of the BSEM in Victorian schools indicated that BSEM training supported teachers to develop a deeper understanding of the impact of complex childhood trauma on behaviour and social relationships, and reduced instances of disruptive student behaviour when teachers implemented the BSEM with fidelity (Farrelly et al., 2019). Other departmental initiatives include the creation of a series of Trauma Informed Practice in Education vignettes, which showcase how schools have enacted trauma-informed practice in their context (Mixed Mediums, 2017).

### 3.5.5 Aboriginal Education

The SA Department for Education has established a number of policies intended to improve support to Aboriginal students. This includes the Aboriginal Education Strategy: 2019 to 2029 (SA Department for Education, 2019), which provides an overarching framework to drive continuous improvement in policy and practice for working alongside Aboriginal families and communities and supporting Aboriginal children and young people achievement and success. This includes a focus on improving enrolment and school retention rates, SACE achievement rates, improved learning outcomes, and building more culturally responsive learning experiences (SA Department for Education, Aboriginal Education Strategy, 2020). Schools are also provided additional support through other resources such as the Aboriginal Learner Achievement Leaders' Resource (SA Department for Education, August 2019).

One of the initial key objectives of the Aboriginal Education Strategy includes ensuring comprehensive, individual, quality learning plans are developed to support student achievement and transitions through consultation with Aboriginal students and their families and communities. Historically this has involved the development of Individual Learning Plans (ILP) for Aboriginal students to support improvement in literacy and numeracy skills (SA Department for Education, *Learning plans*, 2018). As noted above, the SA Department for Education is now transitioning to the OnePlan process to provide a more unified and cohesive approach to student support planning. Other programs are also available, such as the South Australian Aboriginal Secondary Training Academy (SAASTA) which provides Aboriginal students with access to a unique sporting and educational program (SA Department for Education, *About SAASTA*, March 2019), and the Aboriginal Program Assistance Scheme (APAS) which provides funding to schools for the employment of tutors to work with Aboriginal students in literacy and numeracy (SA Department for Education, *Programs and initiatives for Aboriginal high school students*, February 2019).

We note that the Aboriginal Education Strategy: 2019 to 2029 does not include the goal to reduce Aboriginal overrepresentation in exclusionary discipline, nor are take homes, suspension, or exclusion mentioned in the document, even in the measures and indicators listed on page 23. This is a significant oversight. As we point out in relation to the same absence in national 'Closing the Gap' targets, it makes it an exceptionally difficult task to increase attendance and achievement for Aboriginal students without simultaneously reducing the use of counterproductive exclusionary disciplinary practices that reward truancy and exacerbate achievement gaps. The negative effects of exclusionary discipline are outlined in Section 4.1, its disproportionate impact on Aboriginal students is noted in Sections 4.1.10.2, 8.3 and 8.7.

### 3.5.6 Students with disability

The 'Children and students with disability policy' (SA Department for Education, June 2019) aims to ensure government school programs are inclusive of students with disability, and set out Departmental staff obligations to ensure inclusive education consistent with the DDA and DSE. Notably, while this policy recognises the human right to education in the Universal Declaration of Human Rights (United Nations, 1948), it does not consider the right to inclusive education as considered under the CRPD and General Comment No. 4.

The policy provides the Department for Education's interpretive statement outlining what inclusive education is understood to mean, which addresses some of the fundamental principles considered in international human rights instruments. It states "students experience inclusive education when they can access and fully participate in learning alongside their similar-aged peers, supported by reasonable adjustments and strategies, tailored to meet their individual needs" (SA Department for Education, *Disability Policy*, June 2019, p. 2). The policy further notes that the DSE require reasonable adjustments to be made to enable students to participate in an inclusive environment on the same bases as other children. Importantly it is also recognised that "the degree to which a disability affects a child or student's learning is determined by their functional needs, the learning environment and the child or student's ability to interact with the environment. Children and students with disability have a diverse range of strengths and needs that may change over time and from situation to situation" (SA Department for Education, *Disability Policy*, June 2019, p. 2).

The policy notes that the obligation to provide reasonable adjustments applies across all aspects of schooling programs from enrolment and attendance, participation and access to the curriculum, and modification to school facilities and equipment. It also notes that adjustments may include accessing "special support options, including special schools or preschools, disability units, special options and other tailored programs" (SA Department for Education, *Disability Policy*, June 2019, p. 2). The policy provides examples of 'special options' offered by the SA Department for Education, including:

- Preschools for children with hearing impairment
- Speech and language programs and classes
- Special classes
- Disability units
- Special schools
- Centres for school-aged children with hearing impairment
- Autism intervention programs

The range of specialised education options for students with disability, and the process for determining whether it is appropriate for a student with disability to access one of these options, is considered in more detail in the SA Department for Education's 'Specialised education options for children and students with disability placement procedure' (SA Department for Education, June 2019). It is notable that programs such as these do not meet the definition of inclusion as specified in General Comment No. 4 to Article 24 of the CRPD: Right to Education (United Nations, 2016). As noted above at 3.4.1.3, while the DSE states that such settings may be permissible in compliance with the DDA, there is a strong argument that reasonable adjustments considered in DSE Standards 4 to 8 and inclusive education practices described in General Comment No. 4 and recent scholarly literature should be implemented to support

equality of access and opportunity, and to provide a truly inclusive education system that aligns with international standards (Graham et al., 2020a).

To support the operationalisation of supports for students with disability, schools are required to develop a personalised learning plan called a OnePlan. Previously disability support was built around a Negotiated Education Plan (NEP), developed in conjunction with the student, their family and other supports, which would contain personalised information regarding a student's strengths and needs, as well as eligibility for additional funded supports. Since 2019, the SA Department for Education has moved away from the NEP to a new planning process called OnePlan to support the implementation of reasonable adjustments and inclusive practices for students with disability. The OnePlan serves a similar process to the previous NEP in that it is intended to establish a personalised learning plan based around the student's strengths and functional needs, and to support decision-making around access to additional specialised supports and funding, including through the Inclusive Education Support Program (IESP). The OnePlan is intended to bring together a number of similar planning processes including those for students in care (the Individual Education Plan (IEP)) and Aboriginal students (the Individual Learning Plan (ILP)), to establish a more unified and cohesive system for holistic student support. Its application to other student cohorts is considered further below.

The SA Department for Education also makes available on its public website a number of resources intended to support school staff to understand and respond to the needs of students with particular diagnoses, including students on the autism spectrum (SA Department for Education, *Autism spectrum*, March 2020), ADHD, anxiety, depression, eating disorders, fetal alcohol spectrum disorder, and self-harm and suicidality (SA Department for Education, *Neurodiversity*, 2019).

#### *3.5.6.1 Universal design principles*

Consistent with obligations under the DDA and DSE, and with principles under human rights instruments, the SA Department for Education encourages schools to consider the concept of universal design to support the rights of children/young people to access and participate in education. This includes creating more inclusive spaces for all students including quiet spaces, sensory rooms and exploring ways to support students with hearing impairments to hear more easily in a classroom environment (SA Department for Education, *Why design for everyone*, May 2018). This is promoted as a means to encourage positive behaviour and support students to self-regulate, which in turn supports students' inclusion in education and minimises risks of disciplinary responses such as suspensions and exclusions (SA Department for Education, *Designing to encourage positive behaviour*, August 2018). These resources speak to universal design in the context of adapting physical environments to support inclusive education, but not to utilising universal design principles to adapt teaching practices and content to support students to access the curriculum.

#### *3.5.6.1 Interoception*

The SA Department for Education has invested in an approach known as Interoception, providing a range of resources to schools to support the teaching of this approach (Government of South Australia [Department for Education], 2020). These resources advocate that students need to be taught 'interoception' as a precursor to learning how to self-manage or to self-regulate. They encourage teachers to embed activities throughout the school day that allow students to create and then focus on any internal changes to their breathing, muscles, pulse,

temperature, or touch. Pathways for teachers to link the teaching of interoception to the Australian Curriculum have also been created (Goodall & McAuley, 2019).

Teaching interoception skills to students is described as a form of “mindful body awareness” (Goodall, 2020, p. 20) that has only emerged in the literature since around 2015 (Mahler, 2015). The aim of teaching interoception is to support students to develop self-regulation skills (Goodall, 2020). Current literature regarding the impact of teaching interoception skills to support self-regulation and to reduce disruptive behaviour reveals mixed findings. Two papers that trialled the use of interoception as part of a mindfulness approach in therapeutic settings have been identified (Hample et al., 2020; Mahler, 2015). Three additional articles have been published by Goodall and colleagues who are currently conducting a program of research in South Australian schools, which aims to build an evidence base for teaching interoception skills to support students’ self-regulation in class, following school-based pilot studies (SA Department for Education, 2019). The focus of this research is to determine whether teaching interoception skills supports a reduction in disruptive behaviour occurrences. Continuing research in this area, including a rigorous, *independent* evaluation of the impact of teaching interoception skills on behaviour, will support educators to embed evidence-informed strategies in classrooms. Preferably this evaluative work is done prior to implementation of new programs or practices to ensure educators’ valuable time and children’s learning is not wasted.

#### 3.5.6.2 *The Inclusive Education Support Program*

The SA Department for Education’s Inclusive Education Support Program (IESP) is a new functional needs-based funding model for South Australian government preschool and school students with disability, which is framed as being aligned with the broad definition of disability under the DDA, and with the NCCD (SA Department for Education, 2020). This replaced the Preschool Support and Disability Support Programs ‘Negotiated Education Plan’ (NEP) and the Students with Learning Difficulties Grant, although clear correspondence between IESP and previous programs was difficult to ascertain. This new funding model commenced in January 2019, with updated eligibility criteria, a Level of Adjustment Matrix and a streamlined, single application process which commenced in October 2019. Programs which were replaced by the IESP include the Preschool Support Program and the Disability Support Program. This funding also encompasses Behaviour Supplement funding, Behaviour RAAP, AusLan, Challenging Behaviour, Disability Supplementary funding, Disabilities RAAP, Disabilities Rollover funding, and Behaviour Rollover funding (not previously reported as students with a disability).

Under this new model, funding is allocated to schools based on the documented adjustments described in a student’s personalised plan (OnePlan). This is based on the individual student’s functional need and required adjustments to support their equal access to education, rather than on a diagnosed disability. This model is intended to capture the needs of all students with disability and learning difficulties including due to mental health, trauma, complex behaviours and complex health needs, whether the required adjustments are at the supplementary, substantial or extensive levels.

This is achieved in two primary ways:

- 1) Students who require minor adjustments beyond that provided within Quality Differentiated Teaching Practice (QDTP) can access additional support directly from the school, through the school’s Inclusive Education Support Program grant.



- 2) For students who require more targeted support and interventions, a school may lodge an online application for additional funding.

IESP broadened the range of categories eligible for additional funding, leading to a 13.7% increase in the number of students receiving funding through disability programs from 2018 (under previous programs).

Table 3.3. *IESP categories eligible for additional funding*

Inclusive Education Support Program (IESP) (2019–)	Negotiated Education Plan (NEP) (2006-2018)
<i>Early intervention</i> <ul style="list-style-type: none"> <li>• Cognitive Delay (up to 7.11 years)</li> <li>• Communication (up to 6.11 years)</li> </ul>	Intellectual Disability Global Developmental Delay Speech and/or Language Vision Hearing Physical Autistic Disorder/Asperger Disorder
Language (> 7 years of age) Intellectual Disability Autism Spectrum Complex Social/Emotional Complex/Acute Healthcare Physical Disability Hearing Impairment Vision Impairment	

The process for accessing additional supports under this model should follow these steps:

- i) Identification of functional need(s) and adjustments, which are documented in the student's OnePlan.
- ii) Schools consider whether the identified functional needs and adjustments meet the IESP eligibility criteria, which is then used to determine whether the student is eligible to access the school's IESP grant funds (i.e. for minor adjustments), or whether an online application should be lodged to seek more targeted support and interventions for the student.
- iii) If an online application is made, this is assessed by a statewide centralised panel of educators and discipline specific experts from within the SA Department for Education.

This process should be regularly revisited by individual schools to ensure identification of student functional needs and appropriate adjustments are current and appropriately tailored to the individual student and are demonstrating value and impact for the student's access and achievement. This is intended to ensure a cycle of continuous improvement and accountability at the school and individual student level.

According to the SA Department for Education, the Inclusive Education Support Program Grant (previously called the Students with Learning Difficulties Grant) is allocated to assist schools to provide programs to improve the learning outcomes of students who have difficulties with reading, limited vocabulary for their age, and significant difficulties in the development of verbal concepts, reasoning or problem solving using words. Principals are encouraged to contact their

Student Support Services Special Educator or Speech Pathologist about proposed whole of site/class/individual student responses and interventions for this targeted cohort of students. In addition to implementation of specific intervention programs for this cohort, the Grant can also be used in the following ways to:

- (a) Reduce class sizes for those with students with additional learning needs;
- (b) Employ additional teachers and/or leaders to work collaboratively with teachers to support assessment for learning and identify adjustments for learning for these students;
- (c) Provide funding for TRT salaries or additional non instruction time for a leader to facilitate the release for teachers to develop, monitor and review individual learning plans and adjust learning programs for students with learning difficulties and/or disabilities;
- (d) Employ SSOs to assist teachers in their classrooms;
- (e) Provide additional release time for a leader or mentor teacher to support others with student management; or a
- (f) Combination of the above.

Publicly available documentation has not yet been updated and information about NEP, including the old eligibility criteria, is still on the South Australian government website: <https://www.sa.gov.au/topics/education-and-learning/curriculum-and-learning/learning-plans>

### 3.5.7 Students in care

Dedicated policies and procedures also provide additional supports for children and young people who are under the guardianship of the Department for Child Protection. This includes a school engagement program which has a strong focus on individually tailored support for students who are at risk of disengaging from school (SA Department for Education, *School retention programs for students in care*, December 2019). Similar to children with disability and Aboriginal children, individual learning support planning is also being transitioned across to the OnePlan system from Individual Education Plans (IEP) which are intended to create stable and supportive learning environments for children and young people who are in care and living away from their parents (SA Department for Education, *Learning plans*, November 2018).

## 3.6 SCHOOL DISCIPLINE

With respect to school discipline, section 83 of the *Education and Children's Services Act 2019* (SA) now makes it explicit that corporal punishment is prohibited in government and non-government schools. Part 7, Division 3 of the *Education and Children's Services Act 2019* (SA) sets out the permitted grounds and timeframes for suspensions, exclusions and expulsions of students from government schools. The Act provides school principals with the power to suspend, exclude or expel a student with some exceptions. A principal must have regard to matters specified under the *Education and Children's Services Regulations 2020* (SA) before making a decision to suspend, exclude or expel.

This includes a requirement for the principal to consider (*Education and Children's Services Regulation 2020* (SA), s26):

- a) the severity and frequency of the misbehaviour of the student; and

- b) the student's prior record of behaviour and response to previous sanctions (if any);  
and
- c) *if relevant, the extent to which adjustments have been made to support the participation of that student, or students with a disability generally, at the school;*  
and
- d) any other relevant matter.

*\*Note that subsection (c) above was not included in the previous Education Regulations 2012 (SA).*

SA Department for Education policies and procedures further clarify the factors that should be considered when determining what is an appropriate disciplinary response to student behaviours. Particularly relevant are the *Procedures for Suspension, Exclusion and Expulsion of Students from Attendance at School* ('2019 SEE Procedures') (now called the *Suspension, exclusion and expulsion of students procedure*) ('2020 SEE Procedures'). SA Department for Education policies and procedures were revised in early 2020 corresponding with the passing and commencement of the new *Education and Children's Services Act 2019 (SA)* and *Education and Children's Services Regulations 2020 (SA)*, including changes to the Behaviour Support Policy, and significant changes to the SEE Procedures to bring the processes for take homes, suspensions, exclusions and expulsions more in line with the principles and goals underpinning the Behaviour Support Policy. Both the previous and the new versions are considered below.

The 2019 SEE Procedures stated that the following must be considered when determining an appropriate disciplinary action:

- Repeated behaviour patterns and possible triggers
- Risk factors, such as disability, trauma and mental health
- Age and stage of development in understanding behaviour and consequences.

The 2019 SEE Procedures also stated that they were designed 'to help irresponsible students to change their behaviour while protecting the rights of the wider school community' (SA Department for Education, *SEE Procedures*, p. 5), and noted that:

...the effective use of suspension and exclusion is dependent on the following:

- Suspension and exclusion being used as part of a behaviour change plan developed for the particular student and situation
- Suspension and exclusion being a time when education is expected to continue
- Appropriate supervision being provided by caregivers to reduce the likelihood of student being exposed to harm or to potential illegal activities
- The student being re-integrated appropriately upon return to school
- Support for those affected by the student's irresponsible behaviour. (SA Department for Education, *SEE Procedures*, p. 5)

While the SEE Procedures (both the 2019 and 2020 versions) state that ultimately principals will use their professional judgment to determine the appropriate disciplinary response in each situation, these decisions should be informed by the SA Department for Education's Behaviour Support Policy.

The SA Department for Education *Response level and types of behaviour* guidelines (SA Department for Education, 2019) provided a stepped-response model that suggested appropriate response levels to various types of behaviours ranging from classroom responses (e.g. 'sit outs'), school responses (e.g. time out or detention) and system responses (e.g. suspension and exclusion), and provided guidance around various factors that should be considered in determining appropriate response levels. Some matters are so extreme that the Department's policy set an expectation that schools give immediate notice of intention to exclude, such as incidents of students using violence involving a weapon (SA Department for Education, *Considering whether to suspend or exclude*, 2019).

Since the recent review of policies and procedures noted above, a new Handbook was developed to consolidate relevant resources relating to student discipline, including checklists, workflows and relevant forms. This Handbook does not include the above guidance regarding a stepped-response model.

The 2020 SEE Procedures recognise that 'children's behaviour is purposeful, happens in the context of their environment, and is learnt over time', remove any reference to student behaviours as being 'irresponsible', and identifies the importance of understanding 'the context and purpose of children's behaviour' and influencing 'the factors that help children to learn and practice positive behaviours' (2020, 2). The 2020 SEE Procedures also establish new principles that are more aligned with international human rights obligations and best practice, including:

- Suspensions and exclusions are most effective when they are used as a part of broader intervention strategies to support safe and positive behaviours.
- Suspensions, exclusions and expulsions must be used in a targeted way to meet one of the 7 functions of the behaviour support policy. Suspensions, exclusions and expulsions are not designed to punish.
- Suspensions, exclusions and expulsions should be used as a last resort to meet the behaviour support policy's goal of safe inclusion for all children.
- Suspensions, exclusions and expulsions must be done in a way that is procedurally fair.
- The process of restoring the relationship between a student and the school community starts from the time a behaviour incident occurs. It continues through the process of suspension and exclusion.
- Special measures should be taken to support the inclusion of students who are at higher risk of suspension, exclusion and expulsion (including Aboriginal students, students in care, and students with disabilities).

Importantly, the 2020 SEE Procedures also recognise the importance of considering factors such as disability, trauma and mental health; that Aboriginal students, students who have been abused or neglected (including students in care), students who have experienced developmental trauma, and students with a disability are at increased risk of exclusion from learning; and the necessity to consider the extent of adjustments that have been made for the student's inclusion in line with the DSE.

The Behaviour Support Policy also provides guidance that is relevant to decision-making around student discipline, and sets an expectation that exclusionary discipline should only be used as a last resort. The Behaviour Support Policy notes that:

“...all behaviours of concern by children and young people will receive a department response. The nature of the response will be equitable and reflect the child’s needs and what’s required to support positive and respectful behaviour in future. Exclusionary responses are used as a last resort.” (SA Department for Education, 2020, p. 2)

The Behaviour Support Policy defines ‘exclusionary responses’ as:

“...responses that exclude children and young people from participation in the school setting or school activities, for example suspension, take home or being excluded from camps or other activities. Part-time programs are considered exclusionary when applied to children or young people who are able to be safely included in the school setting full time and where full-time attendance is in the best interests of the child or young person.” (SA Department for Education, 2020, p. 8)

The Department’s policies also encourage schools to use a partnership approach when responding to student behaviour, as it is important to engage all relevant partners to support the behaviour development of a student. This is encouraged for example through suspension conferences (now reconnection meetings) and pre-exclusion conferences (now directions conferences), and requirements to contact parents or carers to advise them of the behaviour and discuss strategies to address the behaviour (SA Government, *Behaviour management and discipline*, April 2019).

Evidently school principals have a broad discretion around the use of student discipline, and have access to a range of policy and procedure documents, as well as other supporting material to inform their decision-making. Notably, most of these resources are not available publicly.

### 3.6.1 Take homes

While not considered under the *Education and Children’s Services Act 2019* (SA), the SEE Procedures also authorise the use of ‘take homes’. Under the 2019 SEE Procedures, a take home was defined as a practice whereby a student who is ‘temporarily unwilling or unable to be managed in school level ‘sit out’ is removed and sent home for the remainder of the school day. A take home is not a suspension and must not extend beyond the remainder of a single school day (SA Department for Education, 2019 SEE Procedures, p. 11). Take homes are intended to be used as a behavioural emergency, allowing the student to withdraw from the school environment ‘to enable him or her to regain control over the inappropriate behaviour’ (SA Department for Education, 2019 SEE Procedures, p. 11).

There is no limit to the number of times a take home may be used for an individual student. The number of times a take home may be used lies with the professional judgement of the principal.

The 2019 SEE Procedures stated that during a take home, the school may provide relevant work for the student to perform at home, or may negotiate with a responsible adult (e.g. parent or caregiver) ‘that the student spend time in a quiet place without distractions and think about his or her behaviour’. The SEE Procedure suggests that for some students with disability and/or those who are affected by trauma, ‘practising calming strategies may be the take home “task”’ (SA Department for Education, 2019 SEE Procedures, p. 11).

Reference to “inappropriate behaviour” has been removed from the new 2020 SEE Procedures, which provide that take homes must only be used to respond to behaviour

emergencies, which are defined as circumstances where ‘students are displaying extreme behaviours or emotional responses that continue for extended periods of time even with staff support’ (SA Department for Education, 2020 *SEE Procedures*, p. 5). The new procedures also note that a take home may be appropriate after reasonable efforts have been made to intervene in the behaviours and support the student without success, which is consistent with the principle requiring schools to use exclusionary practices only as a last resort.

When a take home is used, the school is obligated to contact the student’s family to organise for an adult to collect the student (SA Department for Education, 2020 *SEE Procedures*, p. 6).

The 2020 *SEE Procedures* do not provide explicit guidance regarding the provision of educative or learning goals during a take home. Prior to the student returning to class, a re-entry conference (now called a ‘reconnection meeting’) should be held with the student and a parent or caregiver to review behaviour support planning for the student.

### 3.6.2 Suspensions

Suspended students are not permitted to attend school for up to 5 days. A school may also internally suspend a student, meaning the student is required to attend school but engages in alternative learning such as in a separate room instead of the usual classroom environment.

The 2019 *SEE Procedures* stated that suspensions are intended to:

- Provide support for the student and the school through a problem-solving conference
- Protect the learning and safety rights of other members of the school community
- Signal to the community that the student’s behaviour is not acceptable within the school community. (SA Department for Education, 2019 *SEE Procedures*, 2019, p. 13)

The *Education and Children’s Services Act 2019* (SA) provides that a principal of a school may suspend a student on the following grounds:

- (a) the student has threatened or perpetrated violence; or
- (b) the student has acted in a manner that threatens the safety or wellbeing of a student or member of staff of, or other person associated with, the school (including by sexually harassing, racially vilifying, verbally abusing or bullying that person); or
- (c) the student has acted illegally; or
- (d) the student has interfered with the ability of a teacher to instruct students or of a student to benefit from that instruction; or
- (e) the student has acted in a manner that threatens the good order of the school by persistently contravening or failing to comply with rules applying within the school with respect to behaviour; or
- (f) the student shows persistent and wilful inattention or indifference to schoolwork. (*Education and Children’s Services Act 2019* (SA), s76)

A student cannot be suspended for more than 15 school days in one calendar year, or on more than 4 separate occasions per calendar year, unless authorised by the Chief Executive of the SA Department for Education (*Education and Children’s Services Act 2019* (SA), s 76(3)).

During the suspension period a suspension conference (now reconnection meeting) should be held between the school principal (or another staff member), the student, and the student's parents or carers, as well as other family supports or staff if appropriate. The purpose of this conference is to discuss the causes of the suspension, consider behaviour support planning for the student, and plan for the student's return to school and re-integration into class. Schools' obligations regarding conferencing and re-entry processes are summarised at Section 3.6.6 below.

While the 2019 SEE Procedures did not explicitly state the a school was required to provide the student with continued access to educational activities during a suspension, they noted that the effective use of suspension is dependent on the suspension being a time when education is expected to continue, albeit in a different format or location (SA Department for Education, 2019 SEE Procedures, 2019, p. 8). In the 2020 SEE Procedures, it is explicitly stated that schools are not required (but may choose to) provide schoolwork or learning tasks for a student during the suspension period.

There is no formal right to appeal a suspension decision. Complaints procedures may be considered where a student or their parents or carers are not satisfied with the school's handling of the suspension or responses to the student's behaviour. This is considered in more detail below at Section 3.9.

### 3.6.3 Exclusions

An excluded student is not permitted to return to school for a period of up to 10 weeks (or the remainder of a school term). Exclusions are intended to be used in response to more serious student behaviour. The 2019 SEE Procedures noted that exclusions are intended to serve the following purposes:

- To enable the student to achieve certain goals related to increasing responsible behaviour and to improving learning.
- To signal that the student's irresponsible behaviour is not acceptable and cannot be managed within that school community without interfering with the right of others to education and safety.

Reference to these purposes of exclusion has been removed from the 2020 SEE Procedures. Further guidance has been added regarding the factors that should be considered before making a decision to exclude a student, including:

- if the student is at higher risk of exclusionary responses and special measures should be provided to support their inclusion
- if the exclusion decision is likely to prevent future behaviours of concerns
- if the exclusion decision is safe in the student's circumstances
- if the exclusion decision helps the school to meet a function of the Behaviour Support Policy
- if the intended outcomes can be achieved using a different consequence.

The *Education and Children's Services Act 2019* (SA) provides that a principal of a school may exclude a student on the following grounds:

- (a) the student has threatened or perpetrated violence; or

- (b) the student has acted in a manner that threatens the safety or wellbeing of a student or member of staff of, or other person associated with, the school (including by sexually harassing, racially vilifying, verbally abusing or bullying that person); or
- (c) the student has acted illegally; or
- (d) the student has persistently interfered with the ability of a teacher to instruct students or of a student to benefit from that instruction; or
- (e) the student has acted in a manner that threatens the good order of the school by persistently contravening or failing to comply with rules applying within the school with respect to behaviour. (*Education and Children's Services Act 2019* (SA), s 77(1))<sup>1</sup>

An exclusion may be for the following period:

- No less than 4 consecutive weeks, or the remainder of the school term if this is shorter than 4 weeks.
- Not more than 10 consecutive weeks or the remainder of the school term, whichever is greater. (*Education and Children's Services Act 2019* (SA), s 77(3))

Notably, under the previous *Education Regulations 2012* (SA), the maximum exclusion length was for the remainder of the school semester for a student above compulsory school age (reg 45(2)(ii)). This longer maximum period for students above compulsory school age has not been replicated in the new *Education and Children's Services Act 2019* (SA).

A principal may extend the exclusion for a further period not exceeding the above limits if they consider the extension is appropriate in the circumstances (for example, a 4 week exclusion may later be extended to 10 weeks or remainder of the school term) (*Education and Children's Services Act 2019* (SA), s 77(4)).

A student cannot be excluded for more than 20 weeks in one calendar year (*Education and Children's Services Act 2019* (SA), s77(5)).<sup>2</sup> There is no limit to how many times a student may be excluded in one year, as long as the total duration does not exceed 20 weeks, unless an exception is made by the Chief Executive of the SA Department for Education or their delegate (*Education and Children's Services Act 2019* (SA), s 77(5)).

Prior to determining whether to exclude a student, the student should first be suspended for up to 5 school days (*Education and Children's Services Act 2019* (SA), s 77(6)). The student should be provided with a notice of intention to exclude from school. During the suspension, a pre-exclusion conference (now directions conference) should be held with the student, parents/caregivers, relevant school staff and other relevant staff and specialists. A re-entry meeting (now reconnection meeting) should also be held prior to the student's return to school. Schools' obligations around conferencing and re-entry meetings are summarised at Section 3.6.6 below.

For a student under the age of compulsion, the school is responsible for providing access to education during the exclusion. Schools' obligations regarding ongoing access to educative and developmental opportunities during exclusion are summarised at Section 3.6.7 below.

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<sup>1</sup> Previously *Education Regulations 2012* (SA) s 45(1).

<sup>2</sup> Previously *Education Regulations 2012* (SA) s 45(2)(b).



### 3.6.4 Expulsions

Expulsions are the most serious disciplinary response and are rarely used. Only students above compulsory school age (who are aged 16 years or older) can be expelled. An expelled student is not permitted to return to the school from which they are expelled during the period of the expulsion. Expulsions are reserved for the most serious behaviours that jeopardise the safety of the school community (SA Department for Education, 2020 *SEE Procedures*, p. 18).

A principal may expel a student above compulsory school age from a particular school if satisfied on reasonable grounds that:

- (a) the student has threatened or perpetrated violence; or
- (b) the student has acted in a manner that threatens the safety or wellbeing of a student or member of staff of, or other person associated with, the school (including by sexually harassing, racially vilifying, verbally abusing or bullying that person); or
- (c) the student has acted illegally; or
- (d) the student has persistently interfered with the ability of a teacher to instruct students or of a student to benefit from that instruction. (*Education and Children's Services Act 2019 (SA)*, s 78)

An expulsion may be for the following period:

- Not less than 6 consecutive months or the remainder of the school semester or year,
- Not more than 18 consecutive months. (*Education and Children's Services Act 2019 (SA)*, s 78(3))

Prior to determining whether to expel a student, the student should first be suspended for up to 20 school days (*Education and Children's Services Act 2019 (SA)*, s 78(4)). The student should be provided with a notice of intention to expel from school. Within 10 school days, a pre-expulsion conference should be held which is similar to a pre-exclusion conference (now directions conference). The principal will then determine whether the student is to be expelled. If not expelled, the above suspension or exclusion procedures should be followed.

Prior to expelling a student, a principal should negotiate an alternative school placement for the student for the duration of the expulsion if possible. In extreme situations, a student above compulsory school age may also be expelled from all government schools and department facilities for not less than 12 months and not more than 5 consecutive years. However, a principal is not able to make this decision. Only the Chief Executive can make this decision on the recommendation of a school principal (*Education and Children's Services Act 2019 (SA)*, s 79).

### 3.6.5 Participation in decision-making

As described earlier in this Chapter, students have a right under international human rights instruments to participate in decision-making, which extends to decisions about exclusionary discipline. Under the *Education and Children's Services Act 2019 (SA)*, the following objects and principles provide:

- (1) *The objects of this Act include –*  
...

(d) Promoting the involvement of parents, persons other than parents who are responsible for children and other members of the community in the provision of education and children's services to children and students in this State...

(4) The following principles must be taken into account in relation to the operation, administration and enforcement of this Act:

...

(e) the involvement of children, students, parents, persons other than parents who are responsible for children and other members of the community in relation to the education and development of children and students should be promoted;

(f) children, students, stakeholders and communities should be consulted in respect of decisions under this Act that may affect them; ...

More detailed guidance regarding obligations to support participation in decision-making and notification of decisions are provided in 2020 SEE Procedures. The 2020 SEE Procedures require that 'suspensions, exclusions and expulsions must be done in a way that is procedurally fair' (2020, p. 2). Table 3.4 below summarises schools' obligations under the 2020 SEE Procedures.

Table 3.4. Obligations under existing SEE Procedures in relation to student participation in decision-making and notification of decisions regarding take-homes, suspensions and exclusions and expulsions.

	Participation in decision-making	Notification of decision
Take-homes	<ul style="list-style-type: none"> <li>• Efforts should be made to find out from the student what is happening for them, noting that they may be too upset or distressed to talk about it.</li> <li>• Information about the incident should continue to be collected after the take-home has been issued to ... support the student to provide their account of what happened when they are feeling more calm and safe.</li> </ul>	<ul style="list-style-type: none"> <li>• If a take-home is needed, the school will contact the parents to organise for an adult to collect the student. If the parents are not available, the school will use the emergency contacts for the student. The parents will be advised: that the student has been issued a take-home in response to a behaviour emergency; of any information that the school has about the events leading up to the behaviour emergency; what has been done to support the student; and the reconnection plans for the student the next day.</li> </ul>
Suspensions	<ul style="list-style-type: none"> <li>• School staff must take reasonable steps to collect the information available about a behaviour incident, including reports from students, parents and staff witnesses, as well as a report by the student who has engaged in the behaviour of concern.</li> </ul>	<ul style="list-style-type: none"> <li>• The principal must make sure that the suspension decision is communicated by a person who can explain the decision to the student and their parents.</li> <li>• A notice of suspension must be given to the student and parents by letter given to the parent, e-mail with a read receipt, or via a home visit.</li> </ul>

<p><b>Exclusions</b></p>	<ul style="list-style-type: none"> <li>• As per suspensions above.</li> <li>• Additionally, a pre-exclusion conference (now called a Directions Conference) must be held before a decision to exclude is made, which is intended to provide the student and their parent or carer an opportunity to participate in the decision-making process. This is considered in the following section.</li> </ul>	<ul style="list-style-type: none"> <li>• Verbal notice of suspensions should also be provided by telephone (3 phone call attempts over 2 days is considered reasonable notice).</li> <li>• The principal must issue a Suspension Pending Directions notice to inform the student and their parents that exclusion is being considered.</li> <li>• Further information and notice is required to be provided through a pre-exclusion conference (now Directions Conference).</li> <li>• A notice of exclusion must be given to the student and parents by letter given to the parent, letter via registered post, e-mail with a read receipt, or via a home visit.</li> </ul>
<p><b>Expulsions</b></p>	<p>As above for exclusions, including through a pre-expulsion conference (Directions Conference).</p>	<p>As above for exclusions.</p>

### 3.6.6 Conferencing and re-entry meetings

The participation of students and their parents and carers should also be promoted through conferencing processes and re-entry meetings (now reconnection meetings). Table 3.5 below summarises schools' obligations under the 2020 SEE Procedures.

Table 3.5. *Obligations under existing SEE Procedures regarding conferencing and re-entry processes*

	Meeting prior to decision	Meeting prior to re-entry
<p><b>Take-homes</b></p>	<ul style="list-style-type: none"> <li>• No meeting required.</li> <li>• Note the principal or delegate is encouraged to collect information including from the student prior to making a decision, if this is possible.</li> </ul>	<ul style="list-style-type: none"> <li>• A re-entry meeting (now 'reconnection meeting') must be held with the student, a parent/carer and a school representative to negotiate a student development plan (now 'behaviour support planning with SMARTAR goals').</li> <li>• The new Procedures now require consideration of any additional information about what happened leading up to the take-home, and any follow up actions required to support the student during the day.</li> <li>• Planning must occur with departmental staff (e.g. Student Support Services or Aboriginal Education) and other professionals</li> </ul>

## Suspensions

- No meeting required.
- Note requirements to consult with student before a decision is made (discussed in 11.1).

to prevent future behaviour emergencies.

- During a suspension and prior to the student's return to school, a 'suspension conference' (now 'reconnection meeting') must be held with the student, a parent/carer and relevant school staff (including Student Support Services, Aboriginal Education and other professionals as required).
- The student development plan (now behaviour support planning with SMARTAR goals) is negotiated.
- During the meeting, a decision may also be made to refer the student to support services within the department or externally.

## Exclusions

- A student must first be suspended, and a pre-exclusion conference (now called a Directions Conference) must be held before a decision to exclude is made, which is intended to provide the student, their parent/carer and relevant professionals an opportunity to participate in the decision-making process.
- As noted in 11.1, principals *should* consider seeking specialist advice and services to inform the decision-making. This is not currently mandatory.
- The student and their parent/carer must be provided with an opportunity to hear the concerns about their behaviour, respond to the concerns, provide any additional information they would like the principal to consider before making a decision, and discuss how they would like to repair the harm that may have been caused by the behaviour.

- During an exclusion and prior to the student's return to school, a 're-entry meeting' (now 'reconnection meeting') must be held to review the student's progress including whether the learning tasks or goals have been achieved.
- A student should be permitted to reconnect with their usual learning program (e.g. return to school) if they have been successful in their alternative learning program, or otherwise an exclusion may be extended.
- The student development plan (now behaviour support planning with SMARTAR goals) is negotiated.
- A decision may be made to refer the student to support services within the department or externally.

## Expulsions

- A pre-expulsion conference (now called a Directions Conference) must be held before a decision to expel is made, which should follow

- If an expelled student wants to return to school after their expulsion, they must contact the school principal to schedule a reconnection meeting.

a similar process as pre-exclusion conferences above.

- The student’s progress will be reviewed including what they have done to engage in learning opportunities while expelled, and to restore and repair harm that may have resulted from their behaviour.
- If the principal decides the student is able to return to school, the student development plan (now behaviour support planning with SMARTAR goals) is negotiated.
- A decision may be made to refer the student to support services within the department or externally.

### 3.6.7 Student connectedness and continued access to educational and/or developmental goals during take homes, suspensions, exclusions and expulsions

As discussed above, and explored further in Chapter 4, students have a right to education under international human rights instruments that continues during their absence from school including during a take home, suspension, exclusion or expulsion. Maintaining a student’s sense of connectedness to their school community, and continued access to learning and/or developmental opportunities during a take home, suspension, exclusion or expulsion are critical to upholding students’ rights to education. Requirements for supporting students during an exclusionary period under the 2020 SEE Procedures are provided in Table 3.6.

Table 3.6. *Obligations for supporting or maintaining student connectedness during an exclusionary practice*

#### Requirements to support students during an exclusionary practice

<b>Take-homes</b>	<ul style="list-style-type: none"> <li>• Students should be supported to have a ‘fresh start’ the next school day.</li> </ul>
<b>Suspensions</b>	<ul style="list-style-type: none"> <li>• Arrangements must be made for the student during the suspension in consultation with the student, their parents, and other professionals (e.g. Student Support Services and Aboriginal Education staff). However little clarity is provided as to what such arrangements should include.</li> <li>• The 2020 SEE Procedures explicitly state that schools are not required to provide school work or learning tasks for a student during the suspension period. This is discussed further in 11.3.</li> </ul>
<b>Exclusions</b>	<ul style="list-style-type: none"> <li>• Schools must provide an alternative learning program, including placement at another school or learning centre.</li> <li>• During an exclusion there must be weekly monitoring of the student’s progress.</li> <li>• A mid-exclusion review should also occur to review the student’s progress and update the behaviour support plan.</li> </ul>

## Expulsions

- The student must be offered options that let them meet their compulsory education requirements, for example through enrolment at another school, Open Access College, or through vocational and further education pathways (for students above compulsory education age (17 years and above) who have been expelled from a particular school).

The *Education and Children’s Services Act 2019* (SA) provides in section 7 that every child has a right to education. However, the *Education and Children’s Services Act 2019* (SA) and Regulations, and the SEE Procedures do not provide a clear expectation that schools will continue to provide access to educational and/or developmental opportunities during a take home or suspension. Table 3.7 below summarises schools’ obligations to provide continued access to educational and developmental opportunities during an exclusionary period, including obligations under the previous SEE Procedures and the new revised procedures.

Table 3.7. *Schools’ obligations to provide continued access to educational and developmental opportunities during a take-home, suspension, exclusion or expulsion*

	SEE Procedures (pre-2020 amendments)	SEE Procedures (current)
<b>Take-homes</b>	<ul style="list-style-type: none"> <li>• A school may provide relevant work for the student to complete or may negotiate with a student’s parent or carer that the student spend time in a quiet place without distractions and think about his or her behaviour.</li> </ul>	<ul style="list-style-type: none"> <li>• No explicit requirement.</li> </ul>
<b>Suspensions</b>	<ul style="list-style-type: none"> <li>• Noted that the effective use of suspension is dependent on suspension being a time when education is expected to continue, albeit in a different format or location.</li> <li>• No further explicit requirements.</li> </ul>	<ul style="list-style-type: none"> <li>• Schools are recorded as an absence. Therefore, schools are not required (but may choose to) provide school work or learning tasks for a student during the suspension period.</li> </ul>
<b>Exclusions</b>	<ul style="list-style-type: none"> <li>• Noted that the effective use of exclusion is dependent on exclusion being a time when education is expected to continue, albeit in a different format or location.</li> <li>• For students under the age of compulsion, the school is responsible for providing access to education during the exclusion. This responsibility required the school to work with the regional Interagency Behaviour Support Coordinator to negotiate an alternative placement with the student, parents, caregivers and relevant support service and interagency personnel.</li> <li>• A tooltip for good practice provided: “During the period of exclusion, nominate a member of staff e.g. class teacher, counsellor to maintain contact with the student through</li> </ul>	<ul style="list-style-type: none"> <li>• Exclusions are recorded as an alternative learning program. Therefore, schools must provide work and learning goals to be completed during the exclusion for students who are of compulsory education age (16 years old) or younger.</li> <li>• For students above compulsory education age (17 years and older), schools may choose to provide school work for the student.</li> <li>• An alternative learning program may include placement at another school, a learning centre, or at home.</li> </ul>

e.g. weekly phone call, text or email. If the student is learning on another site then visiting is also possible. This supports the maintenance of connection with the school and is one step toward restoration of relationships on the student's return."

### ***Expulsions***

- Prior to expelling a student, a principal will negotiate an alternative school placement for the student for the duration of the expulsion if possible.
- The student must be offered options that let them meet their compulsory education requirements, for example through enrolment at another school, Open Access College, or through vocational and further education pathways (for students above compulsory education age (17 years and above) who have been expelled from a particular school).

### 3.7 COMPARISON TO OTHER AUSTRALIAN JURISDICTIONS

Each Australian jurisdiction is responsible for establishing their own legislative and policy frameworks to guide schools in the appropriate use of disciplinary measures such as take homes, suspensions, exclusions, and expulsions. As a result, comparisons can be made between different frameworks to identify differences and possible opportunities for improvement, although terminology differs across sectors (see Appendix A).

A comparative analysis of all Australian state and territory legislation was conducted as part of this Inquiry to put in context the current status of South Australian legislation in relation to take homes, suspensions, exclusions and expulsions. This analysis compared the permissible periods (Table 3.8), grounds for (Table 13.1 (see Appendix A)) and patterns in take homes, suspensions, exclusions and expulsions (Table 6.1 (see Section 6.1)), identifying some key differences in South Australia's framework compared to other state government sectors which are summarised below.

Table 3.8. Permissible lengths of take homes, suspensions, exclusions, and expulsions across state government school sectors

	SA	QLD	NSW	VIC	TAS	WA	ACT	NT
<b>Take homes</b>	Rest of (1) school day	-	-	-	-	-	-	-
<b>Suspension (Short)</b>	1-5 days <sup>i</sup>	1-10 days <sup>ii</sup>	1-4 days <sup>iii</sup>	1-5 days <sup>iv</sup>	Up to 2 weeks <sup>v</sup>	0.5-10 days <sup>vi</sup>	Up to 20 days <sup>vii</sup>	Up to 20 days <sup>viii</sup>
<b>Suspension (Long)</b>		11-20 days <sup>ix</sup>	5-20 days <sup>x</sup>					
<b>Exclusion</b>	4-10 weeks <sup>xi</sup>	Up to 1 year, or permanently <sup>xii</sup>	Indefinite – no period prescribed <sup>xiii</sup>	Indefinite – no period prescribed <sup>xiv</sup>	More than 2 weeks (no upper limit prescribed) <sup>xv</sup>	Indefinite – no period prescribed <sup>xvi</sup>	Indefinite – no period prescribed <sup>xvii</sup>	Indefinite (only where student is charged) <sup>xviii</sup>
<b>Expulsion (individual school)</b>	6-18 consecutive months <sup>xix</sup>				Indefinite – no period prescribed <sup>xx</sup>			Indefinite – no period prescribed <sup>xxi</sup>
<b>Expulsion (all schools)</b>	12 months to 5 years <sup>xxii</sup>							



<sup>1</sup> *Education and Children's Services Act 2019* (SA) s76(1).

<sup>2</sup> 'Short suspensions': *Education (General Provisions) Act 2006* (Qld) s283.

<sup>3</sup> 'Short suspensions': NSW Department of Education and Communities, *Suspension and Expulsion of School Students Procedures – 2011*, < [https://policies.education.nsw.gov.au/policy-library/associated-documents/suspol\\_07.pdf](https://policies.education.nsw.gov.au/policy-library/associated-documents/suspol_07.pdf) > para [6.2.1].

<sup>4</sup> Unless longer approved by Regional Director: Ministerial Order 1125 – Procedures for suspension and expulsion of students in government schools (2018)

<<https://www.education.vic.gov.au/Documents/school/teachers/studentmanagement/MinisterialOrder1125SIGNED.PDF>>, para 11(1).

<sup>5</sup> Suspension may be full-time or part-time: *Education Act 2016* (Tas) s130.

<sup>6</sup> *School Education Act 1999* (WA) s90; *School Education Regulations 2000* (WA) s43(1).

<sup>7</sup> The decision is to be made by the director-general following consideration of the principal's recommendation, however the director-general may delegate the power to suspend a student up to 15 school days to a principal: *Education Act 2004* (ACT) s36.

<sup>8</sup> *Education Act 2015* (NT) s 91(5).

<sup>9</sup> 'Long suspensions': *Education (General Provisions) Act 2006* (Qld) s283(1)(b).

<sup>10</sup> 'Long suspensions': NSW Department of Education and Communities, *Suspension and Expulsion of School Students Procedures – 2011*, < [https://policies.education.nsw.gov.au/policy-library/associated-documents/suspol\\_07.pdf](https://policies.education.nsw.gov.au/policy-library/associated-documents/suspol_07.pdf) > para [6.3.1].

<sup>11</sup> 'Suspension' if the student commits a serious breach of school discipline: *School Education Act 1999* (WA) s90; *School Education Regulations 2000* (WA) s43(1).

<sup>12</sup> 43 weeks (or remainder of school term) to 10 weeks (or remainder of school term, whichever is greater: *Education and Children's Services Act 2019* (SA) s77(3).

<sup>13</sup> 'Exclusion' from particular government schools: *Education (General Provisions) Act 2006* (Qld) s295(3). 'Exclusion' from all government schools: 'Exclusion': *Education (General Provisions) Act 2006* (Qld) s302(3). 'Cancellation of enrolment': *Education (General Provisions) Act 2006* (Qld) s316-317.

<sup>14</sup> 'Expulsion': NSW Department of Education and Communities, *Suspension and Expulsion of School Students Procedures – 2011*, < [https://policies.education.nsw.gov.au/policy-library/associated-documents/suspol\\_07.pdf](https://policies.education.nsw.gov.au/policy-library/associated-documents/suspol_07.pdf) > para [8.3.1].

<sup>15</sup> 'Expulsion': Ministerial Order 1125 – Procedures for suspension and expulsion of students in government schools (2018)

<<https://www.education.vic.gov.au/Documents/school/teachers/studentmanagement/MinisterialOrder1125SIGNED.PDF>>, para 12(3).

<sup>16</sup> Exclusion decision may only be made by the Secretary (not a school principal): *Education Act 2016* (Tas) s132(3)(b).

<sup>17</sup> 'Exclusion': *School Education Act 1999* (WA) ss92, 94.

<sup>18</sup> 'Exclusion': *Education Act 2004* (ACT) s36(2).

<sup>19</sup> Only the CEO may exclude a student, and only where the student is charged with an offence (committed either in or outside of NT) punishable by a term of imprisonment of more than 2 years: *Education Act 2015* (NT) s 92.

<sup>20</sup> 6 consecutive months (or remainder of semester or year) to 18 consecutive months: *Education and Children's Services Act 2019* (SA) s78(3).

<sup>21</sup> *Education Act 2016* (Tas) s132(3)(c)-(d).

<sup>22</sup> *Education Act 2015* (NT) s 93.

<sup>23</sup> 12 consecutive months (or remainder of school year) to 5 consecutive years *Education and Children's Services Act 2019* (SA) s79(3).

It should also be noted that terminology around suspensions, exclusions and expulsions differs between jurisdictions. For example, Queensland's framework refers to short suspensions, long suspensions, exclusions and cancellations of enrolment, while the framework in New South Wales refers to short suspensions, long suspensions and expulsions. Evidently these differ to terminology used in South Australia's disciplinary decision-making framework. Furthermore, different jurisdictions also contain other unique thresholds for use of certain disciplinary interventions. For example, expulsions in South Australia are only permitted to be used for students above compulsory school age, while in other jurisdictions an expulsion may be used for any student. In some jurisdictions such as Tasmania and Western Australia, more serious disciplinary decisions may not be made by a school principal.

### 3.7.1 Take homes

As far as the Inquiry team could ascertain, South Australia is the only government school sector to have formalised 'take homes', which is when a parent or carer is contacted during the school day to come and remove their child from school, although WA records suspensions from half of one school day and this achieves the same end. The reinforcing effect and burden of sending children home midway through the school day has been noted by parents of children with

disability in multiple reports from inquiries, reviews, and audits of the provision of education to students with disability for the last 20 years. Recording 'take homes' is an extremely important move on South Australia's part and one that should be implemented by all other Australian education providers. Formalising these 'micro' suspensions is a critical first step towards monitoring the practice, providing departments with data that can be used to identify patterns and problems in their use. According to the SA Department for Education's SEE Procedures, take homes are only to be used in a behaviour emergency and only for the duration of the same school day. We discuss their prevalence and use from the perspectives of stakeholders in Chapter 5 and examine patterns in recorded data in Chapters 6 to 8.


### 3.7.2 Suspensions

The permissible length of suspensions in South Australian government schools is comparable to most other jurisdictions. Only one jurisdiction, New South Wales, sets a shorter limit to suspensions at up to four (4) school days. Most other jurisdictions permit suspensions for longer periods than in South Australia, including up to ten (10) days in Tasmania and Western Australia, and up to 20 days in Queensland, New South Wales, ACT and Northern Territory. As noted in Table 3.8, some jurisdictions distinguish between short and long suspensions, limiting long suspensions as a disciplinary response to more serious behaviours. By comparison, in South Australia the next disciplinary response beyond a short suspension is an exclusion for between four (4) and ten (10) weeks (or longer if for the remainder of the school term). In contrast to many other Australian jurisdictions, South Australian government schools are limited to excluding a student for a significantly longer period where behaviours are considered more serious. As a result, students in South Australian government schools may be at greater risk of being removed from a school for longer periods than their peers in other jurisdictions, as after a suspension, the next disciplinary response that follows is a four (4) to ten (10) week exclusion.

Grounds for suspension in South Australia are comparable to many other Australian jurisdictions (see Appendix A), which focus broadly on threatened or actual violence, illegal acts, misbehaviour or disobedience, behaviour that threatens the safety of others, or behaviour that impacts the learning of others. However South Australia is unique in that it permits suspension for 'persistent and wilful inattention or indifference to schoolwork'. One other jurisdiction permits suspension on the basis of persistent or wilful noncompliance (ACT), while another permits suspension where a student fails to comply with any clear and reasonable instruction but only where this poses a danger to the health, safety or wellbeing of any person (Victoria).

### 3.7.3 Exclusions and/or expulsions

As noted, terminology regarding exclusions and expulsions differs between jurisdictions. South Australian 'exclusions' are synonymous to 'long suspensions' in other jurisdictions, in that South Australian exclusions are permitted on similar grounds to long suspensions and are the school's next response after a suspension rather than a longer 'suspension'. While some other jurisdictions do permit exclusion (Tasmania for more than two weeks, and indefinitely in Northern Territory), their frameworks impose other limits or safeguards on their use: in Tasmania, only the Secretary (not a school principal) may exclude a student, and in Northern Territory, exclusions are only permitted where a student has been charged with a criminal offence. Other jurisdictions do not permit 'exclusions' at all, or the term 'exclusion' is synonymous with 'expulsion', which involve long-term removal from a school and in principle are generally restricted to the most serious of behaviours.



Uniquely, Queensland's 'exclusions' (e.g., which may also be considered synonymous with 'expulsions') are authorised on grounds comparable to those for South Australian 'exclusions', and while they authorise the removal of a student from a school for up to one year, or permanently. Meanwhile in Western Australia, a principal may make a recommendation for exclusion/expulsion to the CEO, who then must refer the matter to a School Discipline Advisory Panel (or if the student has a disability, to a Disability Advisory Panel) consisting of three panel members with relevant skills and experience, and at least one member being a parent or community representative. The panel then examines the matter, and reports to the CEO setting out comments about how the matter had been dealt with by the school and recommendations about how the matter should be dealt with now including, for example, whether the student should be excluded. Evidently, a number of other jurisdictions in Australia impose mechanisms that, at least in principle, aim to limit the use of significant exclusionary practices such as exclusions to appropriately serious circumstances. Decision-making regarding the suspension and exclusion of students in South Australian government schools, including opportunities for change based on lessons learnt from other jurisdictions is discussed in more detail in Section 4.2.

Notably 'expulsions' in South Australia are time-limited (maximum 18 months from an individual government school and five (5) years from all government schools) and are limited to students above compulsory school age. In most other jurisdictions, 'expulsions' may be permanent or indefinite, and may be used for any student. In comparison to other jurisdictions, South Australia's framework in relation to expulsions appears, at least in principle, more aligned with fundamental rights to education, in that a student of compulsory school age (i.e. under 16 years of age) may not be indefinitely or permanently removed or 'expelled' from one or all government schools. As evidence shows in Chapters 6 to 10, there remains significant concern about the disengagement of students from government schools and the influence that school exclusionary practices and alternative learning programs (such as FLOs) have on student disengagement.

## 3.8 FLEXIBLE LEARNING OPTIONS AND LEARNING CENTRES

A number of programs have been established by the Department for Education to provide alternative options to implement behaviour support interventions beyond the mainstream classroom environment and support disengaged students (or at risk of disengaging) to return (or remain) in mainstream schooling. This includes Learning Centres, Better Behaviour Centres, and Flexible Learning Options (FLOs). Flexible learning programs are also provided through Open Access College (OAC). These alternative programs will often cater for students who have been suspended, excluded or expelled.

### 3.8.1 Learning Centres

Learning Centres work in partnership with school communities to provide “short-term, targeted, restorative education programs for students who require intervention beyond the capacity of a mainstream classroom” (SA Department for Education, *Learning centres*, December 2019).

The programs offered in Learning Centres include:

- Programs designed to achieve behavioural and attitudinal change
- Individualised curriculum including intensive literacy and numeracy support
- Explicit social and emotional resilience program
- Transition programs back to schools
- Professional development and classroom programming directed towards student engagement, inclusion, and behaviour management strategies for school staff.

A student can be referred directly by the student’s school. Learning Centres are targeted towards supporting students who:

- are under the age of compulsion and have been excluded from school
- have social or behavioural difficulties and are disengaged or disengaging from school and require a level of restorative intervention not available in their home school.

### 3.8.2 Better Behaviour Centres

Six Better Behaviour Centres have been established across South Australia. Better Behaviour Centres provide restorative, early intervention educational programs to help students re-engage constructively with mainstream schooling (SA Department for Education, *Better behaviour centres*, December 2019). These include intensive, individualised literacy, numeracy and social skills programs, which also seek to provide social and emotional support for both the student and their family through a family coordinator to ensure a more holistic approach to implementing behaviour management strategies.

There are two secondary regional centres (Murray Bridge High School and Port Lincoln High School), and four primary metropolitan centres (grades 3 to 7) (Elizabeth East Primary School, Salisbury Downs Primary School, Woodville Primary School and Huntfield Heights Primary School). The secondary centres provide full-time behavioural and educational support when all other regional behaviour support options have been exhausted. The primary centres offer early intervention behavioural support through a part-time program (2 days per week) while the student remains enrolled at their home school. Students may

be referred by their school, and placement in a behaviour centre is determined by a local leader's referral group.

### 3.8.3 Flexible Learning Options (FLO)

Flexible Learning Options (FLO) were introduced in 2006 as an enrolment option that formed part of an Innovative Community Action Network (ICAN), intended to utilise local area networks between schools, community groups, businesses and government services to encourage young people to finish their secondary education. It provides an alternative, more flexible option than the traditional full-time enrolment in school, supporting young people most at risk of disengagement and who are unable to engage in the traditional mainstream schooling environment due to personal or emotional barriers (SA Department for Education, Flexible Learning Options (FLO) enrolment, 2019; SA Department for Education, Flexible learning option enrolment policy, 2020). They are intended to support schools and the wider community to work together to help young people stay connected with their learning (SA Department for Education, Flexible learning options (FLO) enrolment, 2019), supporting broader policy commitments of improving social inclusion, school retention rates and educational outcomes for at-risk students including SACE outcomes.

Enrolment in a FLO is meant to be an option of last resort. The FLO policy notes that “disengaged students are only FLO enrolled after all other school options have been considered and Support Services have been involved, without successful re-engagement in a mainstream learning program” (SA Department for Education, 2020). FLO enrolments are meant to last for one year, although can be extended, and a student can exit a FLO enrolment at any time.

A FLO enrolment is available to students from grade 8 until they turn 21 years of age. Young parents completing their SACE may also remain engaged until their 25th birthday. Students are eligible if they have been “disengaged from school for at least 1 term and have a number of social, emotional or personal barriers to a positive engagement in learning and living in the local community” (SA Department for Education, Flexible learning option enrolment policy, 2019). A student is considered ‘disengaged from school’ when they are assessed as ‘significantly disengaged’ or ‘partly disengaged’ using the department student engagement matrix, which is an assessment tool to determine levels of engagement in three domains: wellbeing, relationships and involvement in learning (SA Department for Education, Flexible Learning Options (FLO) enrolment procedure, 2019, p. 16).

Once enrolled in a FLO, each student has a FLO coordinator to ensure they are appropriately supported and monitored, and an individual case manager. Case management may be provided by a departmental staff member. Alternatively, schools may broker student case management services with external agencies through the Department for Education's approved panel of providers. The case manager must provide support with wellbeing and help to coordinate services to meet their individual social, emotional, learning and transition needs (SA Department for Education, FLO Policy, p 2). All secondary school age FLO students also have a Flexible Learning and Transition Portfolio (FLTP) which is used to capture the student's individual wellbeing and learning needs. This is negotiated with the student to ensure it includes accredited learning programs that meet the student's identified needs, strengths and interests. This may include for example vocational qualifications such as obtaining a white card or first aid certificate in preparation for further

education, training or employment (particularly for senior secondary students). Elements of literacy and numeracy should also be built into the learning plan.

FLOs have been considered in previous inquiries and reports and featured in recent academic literature. Recent literature has raised concerns that despite being intended to promote social inclusion and access to education for at-risk students, FLOs may contribute to the segregation of students and prevent a truly inclusive education system (Bills et al., 2019). These concerns are explored further throughout this report.

#### 3.8.4 Open Access College (OAC)

Open Access College is the sole distance education provider in South Australia, providing flexible on-line teaching and learning approaches to students who are unable to access education from mainstream schools, or unable to access particular subjects at their current school. Enrolled students may be 'college-based' where their home is geographically isolated, the student is unable to access a government school, the student is exempted from school for the purpose of home education, or the student is interstate or an adult student (SA Department for Education, *Open Access College enrolment policy*, 2020). School-based students may also enrol in OAC as an alternative placement option on either a full-time or part-time basis. This may be an option for example where the student:

- wishes to access a specific subject not available at their current school,
- is unable to attend full time due to family commitments,
- requires a temporary exclusion placement,
- requires an alternative placement for a specific period, including medical conditions.

The Department for Education's Open Access College enrolment policy (2020) states that students under the age of 16 may be excluded from their current school to OAC, following consultation at a pre-exclusion conference. The policy also notes that "when a school is in the process of developing a behaviour support plan or considering a strategy to support learning outcomes it may be an appropriate strategy to achieve the goals identified for the student through an alternative placement with Open Access College." OAC may cater for a range of learning needs, including significant numbers of students with disabilities. For example, in 2019 OAC catered for more than 60% of students with verified disabilities in the Central East Partnership (SA Department for Education, *Open Access College 2019 Annual Report*, 2019).

### 3.9 EDUCATION COMPLAINTS

In March 2012, the SA Department for Education and Child Development Parents Complaint Unit (PCU) (previously renamed the Education Complaints Unit, now the Customer Feedback Unit) was established in response to recommendations from the Cossey Report (2011), as well as findings of the Ombudsman SA in 2010. At this time, the PCU was the third level of the complaints process, with the second tier involving complaints being directed to regional directors. This second tier was removed in 2014 when regional directors became education directors.

In light of recommendations from the Debelle Royal Commission (2012-2013), additional funds were allocated to Ombudsman SA in 2014-15 by the Attorney-General over four years

to promote administrative oversight of and improvement in the then Department for Education and Child Development. In 2015 the SA Ombudsman also initiated an audit of the Department for Education and Child Development's education related complaint handling practices, with the final audit report published in November 2016 (Ombudsman SA, 2016). The report revealed a number of areas for improvement in existing complaints handling practices, including:

- complaint handling is, to a large extent, unplanned and inconsistent across education sites
- complaints are not always recorded or reported to DECD by schools
- staff are not provided with adequate training in complaint handling
- there are inconsistent policies published by a number of schools
- few sites had clear, concise information about making a complaint available on their main website
- some school sites, if not a majority, ... rely heavily on the second level of complaint handling, rather than applying resolution skills at first or subsequent point of contact. (Ombudsman SA, 2016, 1)

Five final recommendations were made, which broadly considered the need for:

- an updated departmental brochure that reflected the current policy and procedure for complaints, including individual school site contact details, to be accessible on each school's website.
- each school or site manager to ensure that proper and consistent record keeping of all complaints in accordance with departmental policy, and to monitor and record complaint handling compliance, statistics and trends at least once annually.
- introduction of a module to the Department's electronic record management system ('Education Management System (EMS)') for recording and reporting complaints. (Ombudsman SA, 2016, 3)

The audit report also notes in relation to record keeping, following further discussion with the Chief Executive of the department, agreement was reached for implementing a more precise definition of what complaint statistics should be recorded. The following was agreed:

- 1) complaints made to a school or other education site becomes a matter for the record when:
  - a) it is not resolved at first point of contact; and
  - b) it is not resolved by a simple verbal response, but requires a response in writing, accompanied by an explanation of reasons for a certain decision and an opportunity for the complainant to be heard.

The complaint statistics recorded in terms of this definition include complaints that are not resolved at school or site level but are escalated for resolution by the [Education Complaints Unit] (Ombudsman SA, 2016, p. 2). An analysis of existing complaints data captured by the Department for Education is considered later in this report at Section 5.7, and Section 10.1.

In November 2018, a Premier and Cabinet Circular was published requiring all South Australian public sector agencies, including the Department for Education, to establish and maintain an effective complaint management system that conforms to the principles in the Australian/New Zealand Standard: Guidelines for Complaint Management in Organizations (2014) (Department of Premier and Cabinet, Complaint Management in the South Australian Public Sector, 2018).

### 3.9.1 Availability of information relating to complaints procedures

In their 2016 audit report, the SA Ombudsman recommended that each SA government school should make available on its website a current SA Department for Education brochure that reflects the current policy and procedure for complaints within SA government schools, and which includes the school site's contact details. As part of the work of this Inquiry, we conducted an audit of twenty (20) SA government school websites to evaluate schools' uptake of these recommendations and to consider the availability of information regarding complaints policy and procedure at the local school level. The twenty (20) schools were selected from the list of SA Government Preschool and School Sites 2020 dataset available through the South Australian Government Data Directory and were selected to represent a collection of primary and secondary school settings across several regions. Each school's public-facing website was searched using each site's search functions, as well as manually navigating through site pages to identify what information was made available in relation to complaints processes. This audit was conducted in August 2020.

Through this audit, it was identified that:

- Seventeen (17) schools contained a link on their public-facing website to a complaints brochure that provided information about complaints policies and procedures.
- However, two different versions of the complaints brochure were in use between these schools. Furthermore, five of these schools' complaints brochures did not include the school site's contact details.
- Three school websites did not contain a link to a complaints brochure on their public facing website and did not provide any other information regarding complaints policy or processes.

While only representative of a small selection of SA government schools, this audit suggests that some SA government schools still do not make available to students, parents and carers a copy of a complaints brochure, or any other information on their school website regarding complaints policy and procedure. This is despite the recommendations made by the SA Ombudsman in 2016 that all schools make such information available on their public-facing website. It should be noted that the complaints brochure, and information regarding the SA Department for Education's complaints policy and processes is available to the public through the SA Government and the SA Department for Education websites.

### 3.9.2 Complaints procedure

A student, parent or caregiver, or other members of the school community may make a complaint or provide feedback about student discipline, the type or quality of supports or services provided for a student, behaviour or decisions of staff, or a policy, procedure or practice (SA Department for Education, *Feedback and complaints about a school or preschool*, 2020).



The SA Department for Education’s Complaint management and reporting policy (2020) sets out a stepped approach for education-related complaints involving three stages:

- (i) complaint directly to the school, initially the teacher or staff member involved,
- (ii) complaint to the school leader (e.g. principal) (‘frontline complaint handling and early resolution’),
- (iii) complaint to the Customer Feedback Unit (‘central complaint resolution’),
- (iv) complaint to the South Australian Ombudsman or other complaints body (‘external complaint resolution’). The below infographic is provided in the Department for Education’s online complaints information, which sets out the individual steps (splitting the first stage into two parts).



(SA Department for Education, *Raising a complaint with the Department for Education*, 2020)

Additional information is provided on the Department for Education’s website to support people to make a complaint, including links to service providers who may support an individual to make the complaint and navigate the complaints process (SA Department for Education, *Accessibility and support to make a complaint*, 2020), and tips for preparing and making a complaint (SA Department for Education, *Tips to make a complaint or give feedback to the department*, 2020).

The Department for Education’s complaint management policy (February 2020) provides the overarching framework for complaints management by the Department for Education. This includes core values for the management of complaints, including taking complaints seriously, ensuring resolution at a local level wherever able and as quickly as possible, and maintaining good communication with all parties to the complaint. Seven core principles are also set out including accessibility, transparency, objectivity and fairness, accountability, privacy, and a commitment to continuous improvement (SA Department for Education, *Complaint management policy*, 2020).

Notably the SA Department for Education’s complaints management policies and resources provide little guidance about supporting students to make complaints, or supporting students’ participation in complaints processes where appropriate. This is despite National Principle 6 of the National Principles for Child Safe Organisations, endorsed by the Council of

Australian Governments in February 2019, which requires organisations including education departments to use a child rights framework to guide their work with children and young people including processes for responding to complaints about the rights and interests of children and young people. The importance of supporting student voice is described at Section 4.6.2, and the need for establishing mechanisms that ensure all students can participate in complaints and appeals processes is considered in Section 4.6.4.

### 3.9.3 Complaint to a teacher or school leader

Complainants are encouraged to raise complaints directly with the Department for Education staff member who made the original decision. If not satisfied with the response, a complaint may then be made to that staff member's line manager (for example a school principal, or a director in a corporate office).

### 3.9.4 Complaint to centralised complaint unit

This stage of the complaints process may include two components: the initial complaint, and a request for internal review of the complaint. If a complainant is not satisfied that a complaint has been resolved at the local level, a complaint can then be raised through the Customer Feedback Unit (CFU). A complaint may be made by phone or by completing the online complaints form.

The CFU's role in responding to complaints "is to liaise with schools and preschools to help all parties to explore appropriate options for resolution. CFU is not a disciplinary or investigation body" (SA Department for Education, *Complaint management and reporting*, 2020).

Once received, the CFU may:

- Give advice about the issues behind the complaint
- Liaise with schools and preschools to ensure all options for resolution have been explored
- Objectively review the complaint if it has not been resolved at the local level
- Connect the complainant to the correct person or area to address the complaint or referring the matter to a relevant manager or executive if the complaint relates to decisions or actions of staff in the corporate office. (SA Department for Education, *Raising a complaint with the Department for Education*, 2020)

A response should be provided by the CFU in writing. This response should also provide information about options to take a complaint further if not satisfied with the outcome, including through an internal or external review of the decision.

If the complainant is not satisfied the complaint was sufficiently addressed or actioned by CFU, a request can be made for an internal review. The internal review will be conducted by the CFU, "usually a different officer to the one that dealt with the original complaint" (SA Department for Education, *Internal and external reviews for school or preschool complaints*, 2020). An internal review may be requested through the online 'application for internal review' form, and may only be sought up to 4 weeks from the date the complainant was advised in writing that the CFU had finalised the initial complaint matter, although this can be waved in special circumstances.

When conducting an internal review, the CFU will review documents, decisions, and processes, and will contact relevant people involved in the original decision. The review will consider if:

- policy and procedure have been followed in a school or preschool decision or action
- more information is to be sought and reviewed
- the complaint has been addressed in accordance with the department's complaint management policy. (SA Department for Education, *Internal and external reviews for school or preschool complaints*, 2020)

The CFU will not make or overturn decisions, rather “they review the circumstances surrounding the school or preschool complaint, then make findings or recommendations to the relevant executives” (SA Department for Education, *Internal and external reviews for school or preschool complaints*, 2020).

The internal review process may take up to 12 weeks. Possible findings or recommendations from an internal review may include:

- a breach of policy or procedure is identified resulting in amendments or changes to practice
- there may be a statement confirming the decision, practice, procedure, or a statement of regret, if warranted
- an acknowledgement that the matter was handled appropriately or could have been handled better
- an improvement in system management is identified and adopted. (SA Department for Education, *Internal and external reviews for school or preschool complaints*, 2020)

If still not satisfied with the outcome of a complaint, a complaint may also be made to an external body for an independent, external review. This may include the SA Ombudsman, the Education Standards Board, the Teachers Registration Board, the Equal Opportunity Commission, or the Australian Human Rights Commission.

### 3.9.5 Complaint to Ombudsman SA

A complaint can be made to the Ombudsman SA about an administrative action or inaction of the Department for Education. The Ombudsman is a complaints body of last resort, established under the *Ombudsman Act 1972* (SA). Complaints regarding the actions of the Department for Education accounted for 7.9% of the Ombudsman’s total complaints received in the 2018-19 financial year, with a total of 182 education related complaints received (Ombudsman SA, *Annual Report 2018-19*, 2019).

A complaint to the Ombudsman provides an opportunity for concerns to be considered by an external, independent review body. Possible complaints may include complaints about the process an agency used to make a decision, delay in taking an action or making a decision, or the conduct of staff. However, the Ombudsman will not necessarily review all complaints merely on the basis that the complainant is dissatisfied with the outcome. The Ombudsman may consider for example whether there is information to suggest the process was not reasonable or fair, or the decision was unreasonable or unlawful. Factors that the

Ombudsman may consider in determining whether to investigate a complaint are outlined on the Ombudsman SA's website (Ombudsman SA, How we decide to investigate).

Complainants to the Ombudsman SA generally need to be made within 12 months of the complainant becoming aware of the issue that gives rise to the complaint. A complaint may be made in writing or by phone to the Ombudsman. Complainants are encouraged to seek to resolve complaints directly with the responsible agency before bringing a complaint to the Ombudsman. If a complaint to the Ombudsman has not been raised through the above complaints channels with the Department for Education, the complaint will typically be referred back to the department for assessment and action.

The Ombudsman SA has broad powers. The Ombudsman may obtain information held by an agency, and has all the powers of a Royal Commission, meaning it can summons a person to provide any document or to give evidence. The Ombudsman may refer a matter for conciliation if it considers this appropriate to find a resolution to the complaint, provided both parties agree to participate in the conciliation. The Ombudsman can make recommendations for amendments to legislation and can make recommendations on policy (for example if decision-making could be improved through policy).

Following an investigation of a complaint, if satisfied there has been an administrative error, or the agency has acted unfairly or contrary to law, the Ombudsman may make recommendations to the agency to rectify or mitigate the effects of the error, that a practice be varied or legislation be amended.

### 3.10 OTHER COMPLAINT OPTIONS

#### 3.10.1 Equal Opportunity Commission

The Equal Opportunity Commission is established under the *Equal Opportunity Act 1984* (SA) ('EOA'). As noted above, the EOA prohibits certain types of unfair treatment including discrimination and enables the Equal Opportunity Commission to resolve complaints about discrimination on grounds such as age, caring responsibilities, race and disability, as well as complaints about sexual harassment or victimisation. For example, a complaint may be made to the Equal Opportunity Commission about discrimination by the Department for Education. In the 2018-2019 financial year, 15 complaints were made to the Equal Opportunity Commission arising from schools, with 60% of these made on the ground of disability discrimination (South Australian Equal Opportunity Commission, *Annual Report 2018-19*, 2019).

A complaint generally must be made within 12 months from the act of discrimination, sexual harassment, or victimisation. If a complaint is made to the Equal Opportunity Commission, the Commission will first seek to determine whether the complainant appears to have been treated unfairly under the relevant law. If the complaint is accepted, in most cases a conciliation conference will be held to attempt to resolve the complaint. As part of this process, the Commission may ask for written or verbal responses to the complaint and gather information and relevant documents about the complaint. The process is intended to be free, impartial, and confidential, and the Commission seeks to ensure fairness in the conciliation process. At any time, the complainant may decide that the issue is settled, and the process will end. The Commission cannot make a determination on whether

discrimination, harassment or victimisation has occurred. If the matter is unresolved through the conciliation process, and the complainant wishes to seek a formal hearing and decision on the matter, the complaint may be referred to the South Australian Civil and Administrative Tribunal (SACAT).

### 3.10.2 Australian Human Rights Commission

The Australian Human Rights Commission is established under the *Australian Human Rights Commission Act 1986* (Cth), which provides the Commission with powers to receive and conciliate complaints in relation to discrimination under federal discrimination law, including the DDA. A complaint may be made by a student or their parent or carer. The complaints process is intended to be informal to improve accessibility of the complaints process. Once a complaint is made, the Commission will generally seek a response from the person or organisation that the complaint is about, before engaging both parties in a conciliatory process to attempt the achievement of a resolution to the complaint. The Commission cannot determine whether discrimination has actually occurred, and if a complaint is not resolved through conciliation the complainant may take the complaint of unlawful discrimination to court. In 2018-19, the Commission received 155 complaints in relation to allegations of disability discrimination in education from across Australia. The Commission successfully conciliated 50% of complaints under the DDA in 2018-19.

## 3.11 COMPLAINTS REPORTING

The Department for Education's *Complaints management policy* includes a commitment to continuous improvement of departmental services by reporting and reviewing complaints data. The Department's *Complaint management and reporting policy* provides that, to measure performance of the department, regular reports are gathered on both level 1 complaints (school level complaints) and level 2 complaints (complaints to the CFU). This includes:

- Level 1 Complaints: principals, preschool directors and team leaders monitor and record complaint handling compliance, statistics and trends. Particulars of the volume, nature and results of complaint handling, including whether resolution occurred locally or was referred to CFU is reported annually by schools and preschools.
- Level 2 Complaints: CFU provide a quarterly report to the department's Senior Executive Group and to relevant executives monthly. CFU complaint data is also published in the department's annual report. (SA Department for Education, *Complaint management and reporting*, 2020)

As noted above, an analysis of existing complaints data captured by the Department for Education is considered later in this report in Section 5.7.

## 3.12 APPEALS AGAINST EXCLUSIONS AND EXPULSIONS

As noted above, there are no appeal rights in response to suspensions. As suspensions cannot be appealed, concerns about a decision to suspend may only be raised as a complaint. The SEE Procedures also note that a student has a right to make

representations to the school Principal about an incident that has led to a proposed suspension (SA Department for Education, 2020, p. 24).

Only decisions to exclude or expel a student may be appealed. A student, a person responsible for a student (e.g. parent or carer) or an adult acting at the request of the student or responsible person (e.g. an advocate) can lodge an appeal against an exclusion or expulsion under section 80 of the *Education and Children's Services Act 2019* (SA).

An appeal must be lodged within a short timeframe. For exclusions, the appeal must be lodged within 5 school days after the student is notified of the decision, and for expulsions it must be lodged within 10 school days. An appeal must be heard within 2 weeks after being lodged. An application may also be made for a stay of the decision, which if granted means that the exclusion or expulsion is put on hold until the appeal is determined.

The *Education and Children's Services Act 2019* (SA) does not specify the grounds on which an appeal can be lodged. Under the 2019 SEE Procedures, appeals were permitted on the grounds of (a) due process not being followed, or (b) inappropriate length or conditions of exclusion or expulsion. The 2020 SEE Procedures note that an appeal can be lodged on the following grounds:

- error of fact (for example, the student did not behave as alleged)
- error of process (for example, the school did not conduct a Directions Conference)
- inappropriate length or conditions of exclusion or expulsion (for example, the alternative program does not provide enough learning supports) (SA Department for Education, *SEE Procedures*, 24).

Typically an appeal against an exclusion will be heard by a panel of three people including the Regional Director or Assistant Regional Director of Education, a principal (not the principal that made the decision), and the Manager, Ethical Standards Unit or delegate with experience in the administration of equal opportunity matters (*Education and Children's Services Act 2019* (SA), s 80(7); SA Department for Education, 2020 *SEE Procedures*, 25). Appeals against an expulsion may be heard by the Chief Executive of the Department for Education.

Possible outcomes from an appeal include:

- Expulsion is upheld
- Variation of the length or conditions of the exclusion or expulsion
- Overturn the exclusion or expulsion. (*Education and Children's Services Act 2019* (SA), s 80(9))

In determining the appeal, the decision-maker may also make recommendations as to actions that the school or SA Department for Education should take in relation to the student.

## 4 RELEVANT SCHOLARLY RESEARCH

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This section of the report provides contextual background for the Inquiry in the form of an analysis of literature relevant to the use of exclusionary discipline and best practices in preventing and responding to problem school behaviour.

### 4.1 EXCLUSIONARY DISCIPLINE

Exclusionary discipline includes take homes, suspensions, exclusions, enrolment cancellations and expulsions. Each result in the removal of the student from school on either a temporary or permanent basis and can occur both formally and informally (Quin & Hemphill, 2014). The abolition of corporal punishment in schools, which in Australia was led by the state of South Australia and is now formalised in the new *Education and Children’s Services Act 2019* (SA), is cited as the original cause for an increase in the use of exclusionary discipline (Slee, 2016; Taylor & Kearney, 2018). Official statistics suggest that suspensions are now the most widespread form of exclusionary discipline used in Australian schools (Taylor & Kearney, 2018), although prevalence is difficult to gauge when so many parents and carers—especially of students with a disability—report they are regularly required to take their child home or to keep them at home on an informal basis (Poed et al., 2020).


The use and effects of exclusionary discipline is one of the most extensively studied topics in education and there is now decades of evidence pointing to seriously adverse effects, particularly from the United States where the negative impacts of so-called “zero tolerance” and “no excuses” approaches to school discipline are now being acknowledged at the highest level of government (US Department of Education, 2014). These approaches privilege the use of suspension and exclusion and are based on the “broken windows” theory of policing, which promotes the idea that severe punishments for any and all misbehaviour will reduce the likelihood of both low- and high-level incidents (Baker-Smith, 2018).

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“Broken Windows” theory argues that a relationship between disorder and crime exists. A broken window is a representation of neglect and lack of accountability. If a window in a building is broken and left unfixed, it is likely that more windows in that building will be broken. The unrepaired windows of the building will entice vagrants to break in and inevitably the vagrants will become squatters. The squatters will subsequently cause more damage to the building and possibly destroy it. The broken windows theory calls for communities to crack down on minor offenses in order to deter serious crime. Therefore, order begets accountability and disorder begets crime and it becomes essential that minor offense violators be punished in order to avoid more serious crimes. During the early 1990’s, American public schools systems began to embrace the broken windows concept for minor school infractions by implementing zero tolerance policies. (Crews, 2016, p. 136)

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The implementation of zero tolerance policies, and their subsequent hollowing out of school practice, has led to a significant increase in the use of exclusionary discipline without any corresponding decrease in principals’ perceptions of problem behaviours (Curran, 2016).



Mounting evidence of the ill-effects caused by exclusionary discipline has led to significant reforms across public school systems in the United States, where it is now realised that suspension and exclusion are blunt tools that disproportionately affect children from poor and minority backgrounds, and should therefore only be used in response to very serious incidents or as a last resort (Kennedy, 2019). In 2014, the Obama Administration issued policy guidance to make clear the effects of previous policies, including their relationship to the school-to-prison pipeline, remind schools of their obligations under civil rights law, and outline a range of evidence-based alternatives based on prevention science (US Department of Education, 2014). While these principles have since been repealed by the Trump Administration (Bacher-Hicks et al., 2019), the #BlackLivesMatter movement has further fuelled the case for systemic reform. Uncommon Schools, one of the charter school networks that embraced the “no excuses” approach has recently made a commitment to relaxing behavioural demands, eliminating detentions for minor infractions, improving student wellbeing, and reducing suspensions (Peiser & Jackson, 2020). Uncommon has since been joined by the KIPP Charter school chain. Broader system recognition that exclusionary discipline catches the most vulnerable students in its grasp, without alleviating the drivers behind the behaviours for which they are then excluded, finally appears to be catching on—with even its strongest proponents.

**This recognition has occurred due to decades of empirical evidence, which finds that exclusionary discipline:**

**4.1.1 Does not provide students with the support needed to achieve behavioural change.**

To be able to change their behaviour, young people must have the self-regulation necessary to consider possible consequences before acting (Jackson, 2017). To do so, they must be able to weigh the advisability of the behavioural responses available to them before choosing the most appropriate behaviour (Graham, 2018a). This is challenging for some students, especially if they have difficulties with inhibition control, as do many young children or students with disabilities like Attention Deficit Hyperactivity Disorder/ADHD (Yarmolovsky et al., 2017). It is especially difficult if a young person has not been taught positive conflict resolution strategies or if they have a language disorder and find it difficult to successfully engage in verbal negotiation (Chow, 2018). Alternative or replacement behaviours therefore need to be explicitly taught if students are to be able to draw on them in moments of heightened emotion (Graham, 2018a). Exclusionary discipline, however, removes students from the teaching environment and, despite claims that it is used to gain the time needed to put supports in place (Baker, 2020), evidence shows that none are typically provided (Coleman, 2015; Quin & Hemphill, 2014; Raffaele Mendez, 2003). Children therefore do not learn replacement behaviours, increasing their risk of being repeatedly suspended or excluded (Graham, 2018a; Slee, 2016; A. Sullivan et al., 2014a). Indeed, previous suspensions are a strong predictor of future suspensions (Chu & Ready, 2018).

**4.1.2 Reinforces the behaviours that it is meant to extinguish.**

If a child finds school stressful and therefore aversive, sending that child home (whether through formal or informal take homes, suspensions, and exclusions) provides them with relief from that environment. Exclusionary discipline can therefore have a paradoxical effect; it teaches stressed children that the behaviour for which they were sent home will get them back there, which can lead to a snowballing of that behaviour over time. The younger the child is, the more effective and indelible the result. Longitudinal analysis of suspension patterns over time



has presented evidence of this reinforcing effect (Chu & Ready, 2018). Research from the United States, for example, shows that approximately 6% of students receive a suspension in any school year, but that around half of those students will experience an additional suspension in that same school year (Green et al., 2018).

#### 4.1.3 Does not deter misbehaviour or improve safety.

High suspension rates are associated—*after controlling for school and community factors*—with lower quality school climates and higher teacher attrition. Further, there is evidence that using suspension for minor incidents contributes to desensitisation. Students who are repeatedly suspended can become ‘desensitised’ to the experience, with research showing that suspension intensifies subsequent externalising behaviours, contrary to its aim (Wiley et al., 2020). In fact, this escalating effect commences prior to formal out-of-school suspensions, as research demonstrates that punitive responses to minor infractions serve to exacerbate, rather than deter, later disruptive behaviour, an effect which is particularly pronounced for students with a high level of school attachment (Amemiya et al., 2020b). Research on students’ perceptions of suspension incidents indicates that many students do not perceive suspensions as helpful, and simply expect that they will be suspended again (Costenbader & Markson, 1998; Quin & Hemphill, 2014). In the study by Costenbader and Markson (1998), a large proportion of students report that they felt ‘happy to get out of the situation’, while many other responses reflect a sense of indifference toward the suspension incident. This disengagement can be attributed in part to the deteriorating effects that repeated suspension has on teacher-student relationships, resulting in a ‘vicious cycle’ of exclusionary discipline and relationship breakdown (Okonofua et al., 2016b), and ultimately eroding students’ trust in adults within the school context (Pyne, 2019). Importantly, when trust in teachers is lacking, suspensions cease to have any meaningful effect on students’ subsequent behaviour (Amemiya et al., 2020a). Thus, suspension as a response to a child’s behaviour is not only harmful, but self-defeating in achieving its intended outcomes.

#### 4.1.4 Increases anti-social behaviour and contributes to behaviour escalation.

Disrupted access to education has been shown to further exacerbate pre-existing difficulties with social interaction (Pirrie et al., 2011). This can occur for a number of reasons including, for example, encouraging deviant group identification and congregation with ‘birds of a feather’ (Novak, 2019), as well as fuelling resentment and distrust by the young person who feels rejected and unsupported by the adult figures in their life (Hemphill et al., 2017). This resentment and distrust can manifest in disrespectful, disruptive, and destructive behaviours that worsen over time. Indeed, Shollenberger (2015) found that suspensions often precede the development of more serious behaviours, rather than the reverse. Longitudinal research that controlled for factors such as truancy and course failure indicates that being suspended in the ninth grade doubles a student’s risk of early school leaving (Balfanz et al., 2015). The same study found “each subsequent suspension decreases a student’s odds of graduating from high school by 20%” (Heilbrun et al., 2018, p. 324). This may be because students become inured to exclusionary discipline over time and, if the most severe options are used too soon or too easily, schools have nothing left to deal with serious escalating behaviour.

#### 4.1.5 Weakens and eventually severs social bonds with peers and teachers.

School connectedness, friendships with prosocial peers and positive teacher-student relationships are protective factors, especially for students with learning and behavioural

difficulties (McGrath & Van Bergen, 2015). Exclusionary discipline however weakens students' connectedness to school, to their teachers and to their friends. Some students are excluded from multiple primary and secondary schools during their education (McGrath, 2019; Pirrie et al., 2011), and this can have a catastrophic impact on the student's trust in and interactions with school authorities worsening over time (Pyne, 2019). Without a network of friends or supportive teachers to go to, excluded students begin drifting away from school by engaging in truancy, leading to repeat exclusions and early school leaving (Noltemeyer et al., 2015).

#### **4.1.6 Actively contributes to and/or hastens disengagement with the education system.**

Prior research has shown—by controlling for individual factors, such as prior achievement and engagement—that exclusionary discipline contributes to negative outcomes *over and above* other individual factors (Hwang, 2018). Suspension has also been shown to be a strong predictor of special education placement, particularly for students from minority racial groups (Skiba, et al., 2005). Longitudinal research from the United States, for example, has shown that students who are suspended for ten days or more are less likely to graduate from high school (Rosenbaum, 2020; Shollenberger, 2015) and are less likely to enrol in or complete tertiary or higher education (Balfanz et al., 2015; Rosenbaum, 2020). This may be partly because the educational rejection that students experience from these practices damages their trust in school authorities (Pyne, 2019), and can leave them with limited expectations of school success and limited motivation to invest in their education (Hemphill et al., 2006).

#### **4.1.7 Sends some children back into unsupportive and abusive home environments.**

School can be a protective factor for students who have experienced abuse and trauma, and children living in care, however, excluding them from school makes them spend more time in those settings (Crosby et al., 2018). These environments may also be a strong contributing factor to the behaviours for which the student was suspended, reinforcing rather than ameliorating the problem. For students in care, exclusionary practices risk increased trauma (or re-traumatisation) due to removal from their friends and community at school, impacting their ability to form secure and stable relationships, and increasing the risk of involvement in the youth justice system (Sentencing Advisory Panel (Victoria), 2019). Interestingly, the potential for increased exposure to unsupportive and abusive home environments due to the COVID-19 pandemic and the danger this poses for disadvantaged children and young people has been recognised by advocacy organisations both in Australia and overseas (Bucci, 2020; UNICEF, 2020). The same risk to disadvantaged children and young people is posed by the use of exclusionary discipline, however, this risk is seldom acknowledged by its proponents.

#### **4.1.8 Creates and/or exacerbates achievement gaps.**

There is evidence from Australian research that students are not provided with schoolwork to complete while on suspension/exclusion (Quin & Hemphill, 2014) but, even when they are, most do not have access to the academic support they need to complete it. This creates or exacerbates gaps in their learning (Lacoe & Steinberg, 2019), which can in turn reinforce the behaviours for which these children were excluded, as they may then engage in task avoidance through disengaged and disruptive behaviours, as well as truant classes and/or whole school days. Academic underachievement and complex externalising behaviours often exist in a reciprocal relationship (McEvoy & Welker, 2000). The impact of lost time in education is compounded when students experience multiple or lengthy suspensions, exclusions, or expulsion (Quin & Hemphill, 2014). Research from the United states, for example, suggests that

some 20% of the achievement gap between black and white students can be explained by the disproportionate suspension rate of black students (Morris & Perry, 2016). It is highly likely that similar patterns exist in Australia and that the disproportionate use of exclusionary discipline on Indigenous students is a factor in an achievement gap that has to date proved impossible to close. Tellingly, the recent Closing the Gap (2020) report does not even mention the words ‘suspension’ or ‘exclusion’, even though closing the attendance and achievement gaps between Indigenous and non-Indigenous students are targets on which no progress has been made in any state or territory in the last decade.

#### **4.1.9 Places an undue burden on parents, risking further adversity.**

When students are suspended, parents must provide supervision and support learning for the duration of the disciplinary response. This can impact parental employment, as well as the stability of the family unit or the stability of care arrangements for a child or young person in care. Students also often perceive parental or carer frustration or anger resulting from the social and economic impacts that arise from exclusionary discipline (Quin & Hemphill, 2014). Families who experience socioeconomic disadvantage and single parents/carers have reported that frequent suspensions, exclusions or expulsion results in caregivers having to cease or risk their employment, or leave their child at home unsupervised (Losen, 2012). Students from already disadvantaged backgrounds can be plunged further into poverty if their caregiver is not able to work due to having to care for their child while on suspension or exclusion.

#### **4.1.10 Disproportionately impacts priority equity groups.**


Exclusionary discipline is inappropriate for but disproportionately used on students who are at most risk, dislocating them from prosocial peers and supportive adults, exposing them to significant long-term risks (McCluskey et al., 2016). In Australia, students from disadvantaged backgrounds, students with disability, Indigenous students, and children in care (Beauchamp, 2012; O’Brien & Trudgett, 2018) are disproportionately overrepresented in school suspension and exclusion statistics.

##### ***4.1.10.1 Students with disability.***

Students with disability experience exclusionary discipline more than students who do not have a disability (A. L. Sullivan et al., 2014). Data from the United States indicates that around 7% of all students are suspended during their school years, but more than 15% of students with disability are suspended at some time (Achilles et al., 2007; Losen & Gillespie, 2012). For students who experience emotional and behavioural difficulties, this figure rises dramatically with up to 44% of these students being suspended during their school years (Krezmien et al., 2006). Many students who are suspended and excluded from school have unidentified language disorders (Clegg et al., 2009; Ripley & Yuill, 2005), suggesting a link between communication difficulties and externalising behaviours. Students with Attention Deficit Hyperactivity Disorder (ADHD), students on the autism spectrum (ASD), and students with emotional and behavioural difficulties (EBD) are especially at risk (Bailey et al., 2019).

##### ***4.1.10.2 Students identifying as Aboriginal and Torres Strait Islander***

While there is only limited research on disproportionality in Australia, evidence suggests that young Indigenous Australians experience disproportionately high rates of suspension and exclusion (Bourke et al., 2000; O’Brien & Trudgett, 2018). This has been attributed to a lack of cultural responsiveness in schools, unaddressed racism within the schooling system, poor



teacher professional development in culturally appropriate pedagogy and cultural awareness, a lack of evidence-based and culturally responsive literacy and numeracy interventions, and repeat suspensions resulting in alienation from the schooling system (O'Brien & Trudgett, 2018; Zubrick et al., 2006). Reduced academic performance can also be compounded for Aboriginal students because of exclusionary discipline and the time lost from instruction while on suspension (Zubrick et al., 2006). Note our point in 4.1.8 above with respect to the nationwide failure to make any progress in 'closing the gap' between Indigenous and non-Indigenous students in attendance and achievement, and the absence of the words 'suspension' and 'exclusion' in the 2020 Closing the Gap report. It is impossible to improve attendance and achievement without also reducing the use of exclusionary discipline, which disproportionately impacts young Indigenous Australians (Beauchamp, 2012).

This 'gap' in public policy targets may be the result of a gap in our collective knowledge about the educational experiences and outcomes of Indigenous students. While there has been valuable research attention to culturally appropriate pedagogy in Australia (Morrison et al., 2019), there has been surprisingly little research on disproportionality and its effects on Indigenous children and young people. This is astonishing, given the massive overrepresentation of Indigenous men, women, and children in the Australian criminal justice system. Indigenous peoples represent only 2.8% of the Australian population (Morrison et al., 2019) but 27% of the national prison population (Australian Government, 2018). Given similar patterns of overrepresentation in the United States and extensive research linking exclusionary discipline to a "school-to-prison pipeline" that disproportionately impacts predominantly African-American students, but also Latinx students, with strong indications that racial bias affects educators' beliefs, expectations, pedagogy and behavioural responses, it is critical that Australian education systems investigate and address similar patterns here.

Evidence exists of an Australian school-to-prison pipeline (O'Brien & Trudgett, 2018; Graham et al., 2010) but our knowledge and ability to interrupt it is limited due to the lack of transparency and availability of the key data needed to understand the reasons for these patterns. Research from Australia's largest education system, the New South Wales government schooling sector, has found that Indigenous students are significantly over-represented in segregated settings (special schools and support classes), and that their rate of segregation is growing faster than their rate of enrolment (Sweller et al., 2012). Further investigation found that Indigenous students are overrepresented in special schools for students with disruptive behaviour and juvenile justice special schools, but not in 'traditional' special schools serving students with physical, sensory, developmental and intellectual disabilities (Graham, 2012). Importantly, their rate of over-representation was lower in mental health behaviour schools, which require a confirmed diagnosis of disability and greater scrutiny from the NSW Department of Education Central Office, than behaviour schools which require no confirmation of disability. There is also evidence suggesting that just under half the students in behaviour schools graduate to juvenile detention, and that the majority never return to regular schooling (Graham et al., 2010). In so doing, these settings appear to function as a link in the school-to-prison pipeline for Indigenous children and young people. The use of exclusionary discipline is a key facilitator in this process, indeed many of the young people in them have spent months and even years out of school on successive long suspensions (Graham & Buckley, 2014), yet too often the assumption is that disproportionate rates of suspension and exclusion indicates some form of deficit inherent to

Indigenous students, rather than deficits within the system in which those students are being educated.

#### 4.1.10.3 *Students in care*

Students living in care are also disproportionately impacted by exclusionary practices. These students have typically experienced childhood trauma, abuse, and neglect (Howard, 2019). When education systems, schools and educators do not adopt system-wide approaches to trauma-informed schooling, school contexts may not adequately support students to learn and develop positive relationships and social skills (Howard, 2019). This may result in students experiencing exclusionary discipline, which can further isolate the student from nurturing relationships with teachers and peers, compound past trauma through loss of relationships, isolation and a sense of rejection, contribute to attrition from formal schooling, impact on educational achievement and outcomes, and increase risk of other long-term impacts considered above (Howard, 2019). Additionally, the impact of these vulnerabilities in early schooling has a multiplier effect, resulting in reduced academic achievement, grade repetition, school avoidance, poor relationships with staff, increased risk of school suspensions and expulsions, and reduced school completion rates (Homel et al., 2012; Walker & Graham, 2019; Young, 2014). Indeed, “children who start behind the eight ball are likely to stay there” (Graham & Fenech, 2014, para 20), if high-quality support and timely, positive behaviour interventions are not provided to students who are at-risk of experiencing exclusionary discipline.

#### 4.1.11 **Increases the likelihood of contact with the justice system.**

Not all parents are able to take time off work to supervise their child while suspended or excluded and not all parents *will* supervise even if they are not working. The result is that some children and young people subjected to exclusionary discipline are unsupervised and out on the streets where they can come into contact with the law for shoplifting, loitering and drug use (Mowen & Brent, 2016). This all too common scenario represents the final stage in the “school to prison pipeline”. Cognisant of the empirical evidence linking schools’ use of exclusionary discipline to juvenile justice involvement, the Australian Institute of Criminology called for an overhaul of school discipline in 2017 (Hemphill et al., 2017), in 2018, the Office of the Advocate for Children and Young People recommended reduction in the use of long suspension (ACYP, 2018), and, in September 2019, a NSW Parliamentary Inquiry recommended the abolition of unsupervised suspensions (Begley, 2019).

## 4.2 RECENT POLICY ADVANCES IN AUSTRALIA AND THE UNITED STATES

### 4.2.1 New South Wales

The NSW Department of Education has recently released their new Student Behaviour Policy for consultation. As outlined in Table 4.1, the proposal is to permit suspensions for students in Kindergarten to Year 2 only for “serious circumstances” (Department of Education, 2020, August 26, p. 6) and to reduce the maximum suspension length from 20 days down to 5 days. For all other students in Years 3 to 12, the proposal is to reduce the maximum length of suspension from 20 days down to 10 days. In recognition that students from particular groups are disproportionately overrepresented and therefore affected by exclusionary discipline, the new Student Behaviour Policy will introduce additional considerations of student circumstances and increased flexibility in decision-making.

For example, school leaders will be required to consider alternative approaches to suspension, such as restorative practices, and to ensure that teachers arrange a program of learning to be completed at home or at school for the period of a suspension to ensure students remain connected to school. With respect to students with disability, principals will be required to ensure that reasonable adjustments have been made to enable access and participation and prevent incidents arising from frustration or overwhelm. Principals must also consider the impact of the student’s disability, prior to implementing a suspension, and are required to consult the student’s Education Plan when determining appropriate learning programs to provide for the student if a suspension is implemented.

The NSW DoE also proposes designing a new tiered model of complex behaviour support with additional specialist staff and measurement tools to build school capacity to meet the learning and wellbeing needs of students with a range of behaviours. This strategy will be supplemented by enhanced professional learning for teachers, specialist, and other school-based staff across all career stages, to support teachers to promote positive behaviour, build positive learning environments and provide targeted behaviour support as required.

Table 4.1. Summary of proposed changes to NSW Department of Education Student Behaviour Policy

Grade levels	Proposed changes
Years K to 2	Suspension to only be used in serious circumstances (e.g., serious physical violence or possession of a weapon at school). Maximum period of suspension will be one to five days.
Years 3 to 12	Maximum period of suspension will be one to ten days
Years K to 12	Principals and school leaders must consider alternative approaches before implementing a suspension. Principals must ensure that reasonable adjustments have been implemented for students with disability before suspension can be considered. Principals are required to identify an alternate and appropriate education or vocational placement for students who receive an expulsion.

Notably, however, the NSW Behaviour Strategy consultation draft does not mention the implementation of culturally appropriate practice or trauma-informed practice, both of which are necessary to address the overrepresentation of Indigenous students and students who have experienced childhood complex trauma who may also be living in care. Each of these groups has been identified previously as overrepresented in NSW suspensions and exclusions (Beauchamp, 2012). Nor did the Telethon Kids evidence review seek or include the voices of students and their parents or carers, as the largest key stakeholder groups. And despite recent indications that students with disability are the most overrepresented group in suspensions and exclusions in NSW government schools (Baker, 2019; see also Section 6.1), both the evidence review and proposed Behaviour Strategy pay little attention to the attitudinal, curricular, pedagogical and environmental barriers facing students with disabilities and the importance of quality teaching, accessible pedagogies, and reasonable adjustments (Graham, 2020).

Therefore, while the proposed Behaviour Strategy is a welcome and positive step forward for NSW it will, for these reasons, likely be insufficient to address the factors driving Aboriginal, trauma and disability-related behaviour incidents and is a missed opportunity for the systemic inclusive school reform necessary to comprehensively address the full range of underlying issues. Further, while opposed by some parent, teacher and principal associations (Baker, 2020), the proposed NSW reforms are supported by earlier moves in the United States, although the NSW changes are more conservative and fall short by:

- still allowing suspension of children in Kindergarten to Year 2 for serious physical violence or possession of a weapon,
- atomising student behaviour without seeking to implement systemic reform, especially in relation to the accessibility of teaching and the provision of support and reasonable adjustments, and
- not implementing strong enough protections for Indigenous and disabled students.

#### 4.2.2 United States


After decades of negative impact from “zero tolerance” school discipline policies, which highly respected scholars have tied to increased involvement with the justice system, especially for poor children and children of colour, the United States has engaged in evidence-based reforms aimed at improving school climates, teaching quality and student support, recognising that educative responses are more productive than punitive responses. In January 2014, the US Department of Education released a resource package informed by the Obama Administration’s Guidance Principles on school discipline, together with a “Dear Colleague” letter from the Office of Civil Rights—*jointly authored by the Department of Education and the Department of Justice*—warning school administrators against engaging in direct or indirect discrimination on the basis of race. While this guidance related specifically to race discrimination, it noted “much of the analytical framework laid out in this document also applies to discrimination on other prohibited grounds” (US Department of Education and US Department of Justice, 2014), including disability. In November 2014, the US Department of Health and Human Services and Department of Education (2014) jointly issued a statement strongly discouraging the use of exclusionary discipline with young children, due to the known impacts on children’s academic, social-emotional and behavioural development.

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As of May 2015, 22 states and the District of Columbia had revised their laws in order to require or encourage schools to: limit the use of exclusionary discipline practices; implement supportive (that is, nonpunitive) discipline strategies that rely on behavioral interventions; and provide support services such as counseling, dropout prevention, and guidance services for at risk students. And as of the 2015-16 school year, 23 of the 100 largest school districts nationwide had implemented policy reforms requiring nonpunitive discipline strategies and/or limits to the use of suspensions. (Steinberg & Lacoé, 2017, p. 44)

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The state of California was ahead of the curve. In 2013, California banned the use of suspensions and exclusions for children in the early years of school (Kindergarten to Grade 3) (Freedberg, 2019), and this has since been adopted by many US states, albeit with some exceptions (Anderson, 2020). Other reforms have included reducing suspension length (e.g.,



Chicago, Philadelphia), limiting suspensions for minor infractions (e.g., California, Chicago, Philadelphia), requiring skill-building in-school-suspensions alongside tight approval systems and limiting grounds for out-of-school suspension (Chicago), banning out-of-school suspension for truancy (Arkansas) or eliminating suspensions entirely (e.g., Miami-Dade County Public Schools) (Anderson, 2020; Hinze-Pifer & Sartain, 2018). While each of these reforms have met with significant opposition from conservative commentators and think tanks claiming that they have resulted in an increase in school violence and serious incidents (Eden, 2019), the empirical evidence shows the opposite. Longitudinal analysis of data from California from the 2011-2012 school year (prior to their school discipline reforms) through to the 2016-2017 school year (several years post-reform), clearly shows a large and significant decline in the number of instructional days lost and a narrowing of the racial gap, attributable to a reduction in the use of suspensions to respond to minor behaviours in all grades (Losen & Martin, 2018). The same study found no evidence that abolishing suspension for minor incidents had resulted in “chaos” and an increase in school violence, as claimed by some commentators (Losen & Martin, 2018). Rather, significant decline in suspensions has been accompanied by improvements in school climate and student academic outcomes. These and other positive outcomes from California’s early reforms have provided reassurance to the Governor of California, Gavin Newsome, who extended the legislation in 2019 to also ban suspension of elementary and middle school children (Kindergarten to Grade 8) for classroom disruption and ‘wilful defiance’ (Freedberg, 2019).

Researchers have since begun to test the assumption, implicit in many of the US reforms, that exclusionary discipline remains a legitimate and effective response to serious infractions. An analysis mapping declines in the use of suspensions for severe infractions from another early adopter, the Chicago Public Schools (CPS) district, found “small but statistically significant increases in student test scores, consequential attendance improvements (beyond the impact of fewer days suspended), and heterogeneity in changes to students’ perceptions of school safety” (Hinze-Pifer & Sartain, 2018, p. 228) between 2007 and 2014. In the 2009-2010 school year, CPS implemented far-reaching reforms that limited the conditions under which superintendents could use suspensions, at the same time reducing suspension length, substituting “skill building” in-school suspension (with a focus on social-emotional learning) for out-of-school suspension, and promoting alternative responses to “implement programming of a restorative or rehabilitative nature” (Hinze-Pifer & Sartain, 2018, p. 236) that would help to keep “students in the classroom as much as possible” (p. 230). Findings suggest that these reforms did not lead to the feared increases in severe behaviour incidents predicted by some commentators, and instead were accompanied by improvements in school climate and connectedness, particularly for schools serving African-American students (Hinze-Pifer & Sartain, 2018).

As in California, the use of out-of-school suspensions was heavily restricted by CPS. This was achieved in a number of ways; first, by changing the grounds under which various disciplinary responses were permissible and, second, by mandating an approvals process that escalated with incident and response severity. Fundamentally, the aim was to remove out-of-school suspension as an option for minor infractions and to both limit and monitor its use for serious infractions. These changes resulted in a stepped-level response system where both minor and major infractions were classified and approved responses for each were clearly stipulated in a corresponding list of “available interventions and consequences” (CPS, 2020). This resulted in



six groups of disciplinary infractions ranging from the merely inappropriate (e.g., low-level disruption, missing class, etc) to those that are both extremely serious and illegal (e.g., possession of a firearm, sexual assault, murder).

In their subsequent analysis of the impact of the declining use of suspension for severe infractions, Hinze-Pifer and Sartain (2018) collapsed these six groups of disciplinary infractions into two: (i) lower level, and (ii) severe (see Table 4.2). Lower level infractions were those in CPS Groups 1-3 and severe were infractions in Groups 4-6. These groupings are based on the Chicago Public Schools Student Code of Conduct (most recently revised in September 2020 to remove in-school suspension as an option for Group 2 behaviours; CPS, 2020) and informed by the Chicago Public Schools Suspensions and Exclusions Reduction Plan (CPS, 2014). Hinze-Pifer and Sartain (2018) found a decline in the use of out-of-school suspensions to respond to severe behaviour incidents with no corresponding increase in their incidence.

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Between 2008 and 2013, the percentage of high school students in [Chicago Public Schools] receiving [Out of School Suspensions] fell from 23% to 16%, and the share of severe infractions receiving OSS fell from 93% to 84%. Over the same time period, the prevalence of severe behaviour incidents remained statistically constant at roughly 12 incidents per 100 students. (Hinze-Pifer & Sartain, 2018, p. 234).

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Table 4.2. CPS code of conduct disciplinary infractions (reproduced from Hinze-Pifer & Sartain, 2018, p. 232).

Infraction	
Lower level	1 Running/noise in halls, leaving or skipping class, persistent tardiness, disrupting class, loitering, unsanctioned computer use, cell phones
	2 Posting bills, leaving school, walkouts/sit-ins, minor physical, breaking other school rules, profanity/obscenity, tobacco, ignoring school personnel, no id, unauthorized parking, non-educational computer use
	3 Disrupting bus, gambling, fighting (no injury), forgery, plagiarism, display of gang affiliation, bullying, obscenity/profanity/harassment with bias, second occurrence of level 1 or 2, disruptive use of cell phone, JROTC uniform violations, seriously disruptive internet use, other seriously disruptive behavior
Severe	4 Extortion, assault, vandalism, battery, theft, false fire alarm (no evac), fireworks, trespassing, spreading computer viruses, weapon possession, alcohol, physical contact with staff during fight, other very seriously disruptive behavior
	5 Aggravated assault, burglary, theft over \$100, credible threats & severe bullying, gang activity, inappropriate sexual contact (including consensual), other disruptive illegal behavior, sexual harassment, false fire alarm (with evac), repeated weapon possession, battery with injury, cyber bullying, hacking school networks, vandalism over \$500, drugs, repeated alcohol, mob action
	6 Firearm or lookalike, use of any weapon to harm, crashing school network, arson, bomb threat, robbery, drug or alcohol sale, repeated drug possession, theft over \$1000, sexual assault, aggravated battery, kidnapping, attempted murder, murder.

Importantly, the recent reforms in US public schools systems did not *just* involve banning or limiting the use of exclusionary discipline, but rather substituting a non-educative response with evidence-based *educative* alternatives, including restorative practices, together with the implementation of preventative measures, such as social-emotional learning, as part of a Multi-Tiered System of Support (MTSS) framework that traverses academic, social-emotional and behavioural domains and which is designed to improve students' academic achievement, social-emotional understanding, and behavioural interactions. We discuss MTSS in more depth in Sections 4.7 and 4.8. For now, we continue to examine the permissible grounds for exclusionary discipline as these are critical levers to keep downward pressure on its use.

### 4.3 REASONS GIVEN FOR THE USE OF EXCLUSIONARY DISCIPLINE IN AUSTRALIA

While exclusionary discipline should only ever be used as a last resort and principally in response to serious incidents due to the side effects mentioned in Section 4.1, rising suspension and exclusion rates suggest that Australian school systems are yet to act on the evidence by implementing practices known to improve student engagement, learning and behaviour. While there are some instances when exclusionary discipline *is* justified, for example, when students bring illegal drugs to school or commit violent or sexual assault, behaviours of such a serious nature are relatively rare (Graham, 2018b; A. Sullivan et. al, 2014a). Students in Australia are at a distinct disadvantage however, compared to their peers in the United States, due to the lack of data transparency across education sectors. This lack of transparency enables claims of a “behaviour crisis” in our schools to go unchallenged, which can provoke governments into “tough” reforms to “crack down” on student behaviour (Graham, 2018a). These reforms are enacted through legislation, are often made in response to a singular violent incident or in response to industrial pressure from principals' associations and teachers' unions. As such, they may be constructed in a rush, privilege the perspective of the lobbying parties, and are rarely evidence-based.

As a result, over time, legislation favours punitive as opposed to educative responses, which are dismissed by some commentators as progressive and weak (Hymowitz, 2000; Sperry, 2015). Where once suspension was a punishment that only the “worst of the worst” received and which other students whispered about, it is no longer uncommon or shameful to be suspended. How can it be when, in 2019, Queensland state schools suspended 1,532 Prep (or Reception) children in their first year of school? (Lynch, 2020). These children were not bringing illegal drugs to school or committing violent physical or sexual assaults. Increasing suspensions of primary school aged children indicates that something has gone very wrong in the system, that the permissible grounds for the use of exclusionary discipline and the thresholds that regulate them are both too wide and too high, and/or that the protective mechanisms that aim to monitor and ensure compliance with those thresholds are ineffective.

The permissible grounds for suspensions and exclusion vary across Australian states and territories (see Appendix A), however, each encompass low-level behaviours for which exclusionary discipline should *not* be used due to the seriousness of its side effects. The South Australian Education and Children's Services Act, 2019 state, for example, that “the principal of a school may suspend a student from attendance at the school for a specified period (not exceeding 5 school days) if the principal believes on reasonable grounds:

- (a) the student has threatened or perpetrated violence; or

- (b) the student has acted in a manner that threatens the safety or wellbeing of a student or member of staff of, or other person associated with, the school (including by sexually harassing, racially vilifying, verbally abusing or bullying that person); or
- (c) the student has acted illegally; or
- (d) the student has interfered with the ability of a teacher to instruct students or of a student to benefit from that instruction; or
- (e) the student has acted in a manner that threatens the good order of the school by persistently contravening or failing to comply with rules applying within the school with respect to behaviour; or
- (f) the student shows persistent and wilful inattention or indifference to school work.”

These grounds are highly problematic and for several reasons. Taking the Chicago Public Schools Student Code of Conduct as an instructive example, the above grounds are less detailed, far more subjective and do not apply any hierarchy of seriousness to guide principal decision making. Consequently, the *threat of violence* or a threat to safety and wellbeing is open to the same level of response as *perpetuated violence*. Persistently contravening or failing to comply with rules is similarly broad and could be interpreted to allow suspension for minor issues like, for example, repeated uniform breaches. Students from disadvantaged backgrounds are vulnerable to the use of exclusionary discipline for not having the correct shoes, not getting to school on time or not completing homework (Graham, Van Bergen & Sweller, 2016). Most concerning is the underlying danger to students with disability; for example, a student with Tourette’s Syndrome could be perceived to interfere with the ability of a teacher to instruct students by repeated calling out or a student on the autism spectrum otherwise threatening the “good order of the school” due to experiencing sensory overwhelm. Similarly, perceived “indifference” to schoolwork is likely driven by difficulty understanding, engaging with and completing schoolwork (Graham, 2016a), rather than simply being “indifferent” to it. Finally, “persistent inattention” is a hallmark of the diagnostic criteria for Attention Deficit Hyperactivity Disorder (ADHD); sending home, suspending, or excluding students with ADHD for inattention is a clear breach of the DDA and DSE.

The above grounds are also problematic because the words “indifference”, “wilful” and “failing” are highly prejudicial and risk negatively influencing educators’ interpretation of students’ presenting characteristics which is what they must do in order to make relevant and effective reasonable adjustments (Graham & Tancredi, 2019). Misinterpretation can have a catastrophic effect on students with disability, but also Aboriginal students and students from disadvantaged and/or trauma backgrounds. The assumption by the writers of legislation is that educators will employ their knowledge of child development, experience and professional judgement to assess and fairly adjudicate matters on the ground, however, the United States reforms limiting the use of suspension for minor infractions, such as classroom disruption, wilful defiance and skipping class, were enacted precisely because educators were not exercising that judgement well and too many students were being suspended. Quite aside from the negative effect on student development, as noted in Section 4.1, this becomes a school and system management problem as students become inured to the consequence by the overuse of exclusionary discipline and schools have nothing left in the toolkit when behaviours inevitably escalate.

Recent research with principals (Swain, 2018) suggests that exclusionary discipline is used for multiple reasons, above and beyond the incident itself. The most common reasons principals cite are to:

1. prompt students to desist from engaging in undesired behaviours by applying a stern consequence,
2. provide classroom teachers with respite and/or reassurance that they have the support of the school leadership,
3. send a message to other students as to the likely consequence of engaging in undesired behaviours,
4. signal to parents of other (current and prospective) students that misbehaviour is being dealt with.

Research has also documented other, more sinister, reasons for the use of exclusionary discipline, including the use of suspension to “push troublesome students out of the school” (Chu & Ready, 2018, p. 483), to build a case for special education funding and/or referral to segregated settings (Graham, 2015) or to eject students who might negatively influence a school’s performance data (Deakin & Kupchik, 2016). Students themselves report that decisions about suspensions are sometimes based on the likeability of the student or their academic abilities (Graham et al., 2016). Such research findings point to concerns that while exclusionary practices may often be used appropriately, they are also used for inappropriate reasons that do not promote a student’s fundamental rights, interests or educational outcomes.

#### 4.4 EXCLUSIONARY DISCIPLINE AND CHILDREN’S RIGHTS

Evidently disciplinary responses to student behaviours are commonly used in education. Within a human rights framework, such practices constitute a form of state intervention in the lives of students that limits their right to inclusive education. This does not necessarily mean that from a human rights perspective that student discipline is not a permissible response to student behaviours. Indeed, international human rights instruments explicitly acknowledge that school discipline is permissible, albeit with certain limitations around the appropriate use of such practices. For example, Article 28.2 of the Convention on the Rights of the Child (CRC) states that “States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child’s human dignity” (United Nations, 1989). What is relevant from a human rights framework is ascertaining *when* school discipline is permissible as a form of state intervention in the lives and rights of students as individual rights-bearers.

There is a growing body of literature that explores the extent to which state intervention in the lives of individual rights-bearers is permissible. For example, it is widely accepted that state intervention is justified to remove a child from the custody of their parents where this is necessary to protect the child’s welfare, health, and safety (Cunneen & Libesman, 2000; Flynn & Arstein-Kerslake, 2017). Conversely, there remains significant disagreement about the circumstances in which state intervention that limits or overrides an individual’s legal capacity may be justified (Flynn & Arstein-Kerslake, 2017). As noted in this body of literature, the ‘proportionality test’ is commonly used in determining the extent to which state interferences

with human rights are permissible (Flynn & Kerslake, 2017; Grimm, 2007). Relevantly, the proportionality test requires two considerations:

- (i) the state intervention (e.g., student discipline) must be used in pursuit of a legitimate aim, and
- (ii) the intervention must be a proportionate response to the legitimate aim pursued.

Existing literature, however, offers limited guidance regarding what grounds may provide a legitimate aim for the use of exclusionary responses to student behaviour or when suspension, exclusion or expulsion may be a proportionate response. Furthermore, it has been noted that any determination of what is a 'proportionate' response is inherently subjective and value-laden, which may result in competing claims about when exclusionary discipline may be a proportionate response to student behaviour (Flynn & Kerslake, 2017).

To consider this further, it is helpful to note what purposes existing legal frameworks typically present as being a legitimate aim or purpose of student discipline. The aim of disciplinary responses often claimed in legal and policy frameworks typically fall within two broad categories: (i) discipline is necessary to promote the student's educational and/or behavioural development, and (ii) discipline is necessary to promote or protect the rights of other students and staff.

This is reflected in South Australia's policy framework which notes that disciplinary responses are designed "to help irresponsible students to change their behaviour while protecting the rights of the wider school community" (SA Department for Education, *SEE Procedures*, 2020). This is also evident in the grounds for suspension and exclusion which include:

- (g) the student has threatened or perpetrated violence; or
- (h) the student has acted in a manner that threatens the safety or wellbeing of a student or member of staff of, or other person associated with, the school (including by sexually harassing, racially vilifying, verbally abusing or bullying that person); or
- (i) the student has acted illegally; or
- (j) the student has interfered with the ability of a teacher to instruct students or of a student to benefit from that instruction; or
- (k) the student has acted in a manner that threatens the good order of the school by persistently contravening or failing to comply with rules applying within the school with respect to behaviour; or
- (l) the student shows persistent and wilful inattention or indifference to schoolwork (*suspensions only*).

The legitimacy and proportionality of a response to student behaviours will ultimately depend on the individual circumstances in each scenario. For example, an exclusionary discipline response for serious violence that threatens the safety of other students and staff will arguably be a legitimate and proportionate response to protect the safety and wellbeing of the other students and staff. Conversely, exclusionary discipline would not be a legitimate or proportionate response to behaviours of a student with disability that are perceived as being 'disruptive', particularly if all attempts to support the student's access through adjustments to structure or teaching methods have not been explored and implemented with fidelity. Importantly, in considering what is a legitimate or proportionate response, regard must be had

to any more creative, non-invasive options available to achieve the legitimate aim, and educators must always consider what action can best respect the totality of the student's human rights, in particular their right to an inclusive education (Flynn & Arstein-Kerslake, 2017).

#### 4.4.1 Balancing Competing Rights

As considered above, one scenario where state intervention is often perceived as being necessary is where the rights of one student is perceived as limiting the rights of other students or staff. Such scenarios include, for example, where the behaviour of one student may be perceived as disrupting the rights of other students to reach their fullest potential through education or where it has potential to infringe the right of other students to protection from risk of harm. Teaching staff are often faced with the challenge of having to navigate these complex ethical scenarios, often with limited training, guidance, or support. Often this may result in one student (i.e., the student whose behaviour is considered 'disruptive') being entirely deprived of their right based on the misconception that the rights of the many should always outweigh the rights of the few (Lundy, 2018).

While the CRC and CRPD do not establish explicit guidelines on how to navigate these situations, critical considerations can be inferred from the principles within these instruments. First, when considering apparently conflicting rights it must be recognised that this is a consideration of two or more parties' *enjoyment* of rights. For example, the common scenarios in education settings noted above involves consideration of one student's (e.g., a student with disability) enjoyment of their right to inclusive education, and other students' enjoyment of their right to education or protection from risk of harm. Often one student's disruptive behaviour may be conceived simply as undermining the rights of other students. However, it must also be conceived in terms of whether the one student's right to inclusive education is being met (Lundy, 2018). *That is, the disruptive behaviours may be a result of the right to inclusive education not being met.* For example, placing students with disabilities within mainstream classes without accompanying structural changes to, for example, classroom organisation, curriculum and learning strategies does not constitute inclusive education (Graham, 2020).

The student must be provided with the supportive structures to avoid or minimise the 'disruptive' behaviour and promote the rights of that student to inclusive education, and at the same time the rights of all other students (Lundy, 2018). In most cases, when this is done effectively, the rights of all students can be upheld without conflict. That is, the conflict of rights in the scenarios considered above will in many cases be avoidable by ensuring teaching staff are supported to employ a combination of inclusive practices that promote access to education for all students on an equal basis, including through the use of reasonable accommodations and universal design principles as described in General Comment No. 4 to the CRPD (United Nations, 2016). When implemented with fidelity, these practices help to eliminate the types of behaviours that may be perceived as disruptive or as presenting risk to the wellbeing of other students or staff. Further, recent literature outlines the academic and social benefits these practices confer on all students, not just those with disabilities (de Bruin, 2020). Certainly, this is an obligation imposed on governments under international conventions: to progressively implement legislation, policies, procedures, and systems that are targeted at upholding the rights of *all* individuals *all* the time (Lundy, 2018). Implicit within this is an obligation for governments to take practical steps to reduce the potential for competing rights, in this case,

by ensuring all reasonable steps have been taken to support all students' access to an inclusive education on an equal basis.

Where all reasonable attempts have been made to promote all students' rights (including attempts to ensure the right to inclusive education), or reconcile respective students' rights (e.g., whether further adjustments can be made to minimise or eliminate the conflict), and rights remain in conflict, consideration needs to be given to balancing respective students' rights in a way that is least restrictive and distributes limitations of rights equally rather than requiring one student (e.g., the student with disability) to sacrifice their right entirely (Lundy, 2018). As Moller notes, this involves balancing "the sacrifice that can legitimately be demanded from one person for the benefit of another person or the public" (Moller, 2012, p. 709). It is arguable for example that it would not be proportionate in many circumstances to sacrifice entirely the right of one student (e.g., the student with disability) for the benefit of others, as it should not be considered legitimate or reasonable to entirely deprive the student with disability from the enjoyment of their right to inclusive education (e.g., by suspending or excluding that student). Rather, some 'middle-ground' or balance of competing rights should be explored (Lundy, 2018). Conversely, as noted above, it may be arguable that an exclusionary response may be legitimate and proportionate in response to serious violence occasioning injury or dealing hard drugs at school (which could also lead to serious injury or death).

It is also important to note that even where competing rights need to be balanced and result in limitations on all or some students' rights, all students should continue to enjoy all rights after the conflict is resolved. A student's "right does not simply disappear from view once it has been traded off against the rights of others" (Waldron, 1989, p. 512). Nor do students lose their rights to inclusive education when their behaviour is 'disruptive' (Lundy, 2018) or after they have been suspended, excluded, or expelled. The Inquiry does not intend to establish here the circumstances in which suspensions, exclusions or expulsions may be a legitimate and proportionate response to student behaviours. This is considered later in the report (refer to Chapter 11). What is evident though is that educators should be supported with clear guidance through publicly available and carefully considered policies, procedures, and guidelines, as well as through continuous professional development and specialist support, to understand and comply with their obligations in these types of scenarios. Recommendations are provided in Chapter 11 about how the SA Department for Education may support staff to employ inclusive practices to support the rights of all students to enjoy equitable learning opportunities in safe and supportive learning environments, and to avoid wherever possible the need to balance competing rights.

## 4.5 UNDERSTANDING BEHAVIOUR

Children's behaviour does not exist in a vacuum. It is shaped by both individual factors and environmental contexts. Individual factors can include age, executive function (e.g., self-regulation), gender, temperament, personality, and popularity (Estell et al., 2008). 'Behaviour' is the outcome of the interplay between these within-child factors and the environmental contexts the child must navigate, which includes the experiences they have and to which they respond (Myers & Pianta, 2008). The two most influential contexts in a child's life are the home and the school. Children bring their home experiences with them to school and, when positive, schools' benefit from the investment that children's caregivers have made and continue to

make throughout their lives (McCormick et al., 2020). Children do not stop developing upon school entry however, and their schooling experiences play a significant role in shaping their social, emotional, behavioural, and academic trajectories over time (Silver et al., 2005). These trajectories can take both positive and negative turns, and the actions that schools do and don't take—the supports, for example, that they do or don't provide—make a fundamental contribution to the nature and quality of children's outcomes.

Longitudinal studies suggest that problem behaviour is both bidirectional and transactional in nature (Doumen et al., 2008; Sutherland & Oswald, 2005). The first of these two terms, *bidirectional*, means that problem behaviour occurs through a process of reciprocated social interaction: the behaviour of one person affects the behaviours of another, and vice versa. Children are not alone in these encounters: they are shaped first through interaction with their parents or carers, and then through their interactions with their teachers and peers. This 'shaping', in combination with the child's individual temperament, abilities and life circumstance, can be positive, leading to prosocial outcomes (Doumen et al., 2008), but it can also be negative. If experienced briefly and episodically, most children can overcome negative interactions and experiences and still prosper. However, the second of these two terms, *transactional*, describes the complex developmental process that occurs when children experience negative relational interactions that are repeated over time (Sutherland & Oswald, 2005). When such experiences are cumulative and ongoing, some children form negative 'working models' of how social interaction works and they use these working models to help them anticipate and respond in future interactions with new partners (Van Bergen et al., 2020).

When educators understand children's behaviour as the outcome of a bidirectional and/or transactional developmental process, it presents new opportunities for both prevention and intervention. Perceiving 'problem' behaviour as the outcome of an interaction for which more than one actor is responsible means that someone other than the child can shape the outcome. This understanding is especially important when it comes to students who have experienced childhood complex trauma and students with a disability. It is also critical for educators to understand that behaviour is a form of communication, that it always has a purpose, and that behaving well is a skill which is learned and as such must be taught.

Almost all students try to do the right thing at school and many consistently succeed. Importantly, the ability to always behave well in the school environment is a learned skill and, like all skills, some students are less developed in this area than others. Even the students who do not do the right thing *all* the time, get it right *some* of the time. When they do not get it right, the most critical questions for educators are: (1) Why they didn't get it right *this* time? (2) How can/should this information inform my response? The answers to these questions are complex and interrelated but can typically be found through a process of analysis that examines the purpose of the behaviour and/or what that behaviour might be communicating. The conceptual foundation to such an approach is a process called Functional Behavioural Assessment or Functional Behaviour Analysis (FBA), to which there are four basic steps which involve:

1. Defining the behaviour
2. Gathering and analysing data to determine:
  - a. When and where the behaviour is occurring
  - b. Where it is not occurring
  - c. How often it is occurring



- d. Who is present when it occurs
  - e. What tends to happen immediately preceding and after the behaviour
3. Consulting the student as to why they think the behaviour occurs
  4. Collaborating on a plan to address the reason for the behaviour.

Of course, busy classroom teachers, deputies and principals do not have the time, expertise, or capacity to conduct these steps through a formal documentation process every time they are confronted with problem behaviour, yet the fundamental principles underpinning this process can be easily and quickly applied in real time. This is especially true if educators understand behaviour as communication and if they consult the real ‘expert’ by talking to the student and asking them—*privately, in a caring and non-confrontational way*—what the problem is.

Young people are capable of profound insights and can often pinpoint the best adjustments to help them to learn and succeed at school. But this can only happen *if* they are consulted. Too often adults make assumptions about why a child is behaving in a particular way and those assumptions can be laced with deficit perspectives relating to that child’s home life or to their temperament, personality and motives. These mental models can obscure the real reason for the behaviour, preventing educators from identifying the correct antecedent (or driver behind the behaviour) and therefore the most effective response. By listening to students, adjusting the environment, considering the instructional and academic demands that are placed on students, and observing the behaviour of adults and the student’s peers, educators can support students to participate and succeed at school (Makowski, 2014).

Associate Professor Anna Sullivan and colleagues (2014b) argued—*six years ago*—that teachers in South Australia would benefit from developing their understanding of the external, school and classroom factors that contribute to problem behaviour. Their research suggested that teachers’ behaviour management strategies are typically student-focused and consequence-based. They found low-level disruptive behaviours, such as students talking out of turn and not following directions, to be the most prevalent and stepped consequences—including warnings, time away, intervention by a school leader, and suspension based on increasing severity, frequency, intensity, or duration of the behaviour—to be the most common response. Sullivan and colleagues (2016) also found that students, their family, and education staff are rarely engaged in collaborative discussions around disciplinary responses to student behaviour. Hunter and Haydon’s (2019) research has demonstrated that teachers can be supported to learn and implement effective and proactive classroom-based behaviour strategies, which focus on understanding and responding to behaviour antecedents, and providing prompts and reminders. The most successful approach is when schools adopt a whole-school framework that no longer views behaviour in isolation, or focuses blame on the student, but considers all aspects of school culture and how these individually and collectively contribute to a positive learning environment in which all students can thrive (SA Department for Education, 2019).

#### 4.6 BEST PRACTICE IN SUPPORTING STUDENT ENGAGEMENT, LEARNING & BEHAVIOUR

The use of exclusionary discipline can be prevented through the provision of complementary high-quality inclusive practices for which there is evidence of effectiveness to support students’ academic, social-emotional and behavioural development, when implemented consistently and with fidelity at classroom, school, and system-wide levels (Nese & McIntosh, 2016). Enactment

of and responsibility for these practices extend from individuals to groups and all are interrelated; the actions of one supports or detracts from the actions of another. Similarly, practices, programs, and aims should align and complement. For example, a systematic and explicit approach to the initial teaching of reading, including phonics, should be complemented by progress measures capable of distinguishing problems in the different subcomponents of reading, and those problems should be addressed using appropriately targeted and evidence-based interventions (Graham et al., 2020b). This occurs best within a school and classroom context that immerses children in quality literature, elaborative conversations, explicit teaching of vocabulary, and intellectually engaging literacy tasks that provide genuine opportunities to learn and to extend learning (Evidence for Learning, 2020a). Recognising that individual differences impact access and ability to take advantage of ‘opportunity’, these practices are ‘broken down’, scaffolded and adjusted to provide and maintain entry points for diverse learners, including students with disability (Swancutt et al., 2020). Beyond the classroom, attention is paid to the building of trust, relationships, and wellbeing. The climate of the school is supportive and cohesive. Bullying and victimisation is minimised, not simply through identification and the application of consequences, but through the intentional development of a culture of acceptance, loyalty and belonging (Harris et al., 2017).

Schools are complex ecologies and the work that occurs within them is both multi-scalar and multidimensional. The choices of practices and programs to employ are endless, however, there are key elements for which there is both moral and empirical evidence to support their inclusion. In the following section, we provide a brief review of each of these elements and then describe how they are being combined in a system-wide approach to conceptualising and organising the work of schools that emerged from the United States and is being increasingly adopted in other jurisdictions internationally.

#### 4.6.1 Social-Emotional Learning (SEL)

In a school setting, regulation of behaviour and emotions is required for many key tasks, like listening to and following instructions, and engaging in effective communication with peers and teachers (Noonan & Erickson, 2017). This capacity for self-regulation is important in enabling children to adjust to the classroom and make friends, and it has flow-on effects for many aspects of school, such as engagement in learning and school achievement (O’Connor & McCartney, 2007; Portilla et al., 2014). However, children do not automatically possess the ability to control their impulses or to regulate their emotions; these skills emerge gradually over the course of development (Bailey et al., 2019; Diamond, 2013), highlighting the centrality of the classroom as a key context within which these skills are learned. In fact, children tend to vary widely in their self-regulation capacity at the commencement of school (Rimm-Kaufman et al., 2000), and for those with learning disabilities, ASD or ADHD, learning to navigate behavioural and emotional responses may be particularly difficult (Berkovitz et al., 2017; Harris et al, 2004). Suspension is a common outcome for students who have difficulty self-regulating their behaviours in accordance with classroom expectations (Quin, 2019); yet this practice does not recognise the contextual and developmental factors that contribute to the behaviour in question, and simply reinforces the behaviour, rarely serving to resolve the underlying reasons (Quin & Hemphill, 2014).

A child’s social and emotional learning is deeply impacted by their environment, and the school classroom is no exception. Teachers’ classroom management is highly dependent on not only

their professional knowledge, but their own emotional reserves (Seiz et al., 2015), and teacher stress levels can influence students' development of self-regulation (Neuenschauder et al., 2017). Importantly, studies have indicated that positive classroom environments and teacher-student relationships can support a child's social and emotional learning (Rimm-Kaufman et al., 2005). A warm and supportive teacher-student relationship can help children to feel more secure in the classroom, even manifesting in a child's reduced physiological stress responses (Hatfield & Williford, 2017). Being in a classroom that is characterised by a positive emotional climate is significantly related to engagement in learning, which in turn is associated with better academic performance (Reyes et al., 2012). For students in the early years of school, classrooms with varied instructional formats (otherwise known as 'multiple means of representation' in Universal Design for Learning) and effective classroom management strategies can help to support students' development of self-regulation and engagement (Rimm-Kaufman et al., 2009). These findings underscore the importance of classroom environment, and equipping teachers with effective strategies to manage stress and their own emotions, in order for them to support children in learning to manage their own emotions and behaviours.

Some school districts and systems in the United States have adopted social-emotional learning (SEL) as part of their Tier 1 practice. Explicit teaching of social-emotional skills is occurring in those systems; not as pull-out programs but embedded into everyday teaching for all students. According to Noonan and Erickson (2017) 'the skills that matter' are self-efficacy, self-regulation, goal setting, assertiveness, and conflict management. Opportunities to learn and practice these skills are built into classroom practice, across grades, with benefit for students who gradually gain the ability to plan, organise and manage both themselves and others. There are clear benefits for students with disabilities, like ADHD, which affect inhibition control, organisation, concentration, and planning (Graham et al., 2018). Explicit teaching of self-regulation skills has positive implications for their social, behavioural and academic outcomes.

#### 4.6.2 Student voice, engagement, and participation

The critical nature of seeking and responding to students' views on issues that impact their experience of school has received attention in the research literature, due to the emancipatory potential of engaging students as partners in their learning (Gillett-Swan et al., 2020; Smyth, 2006). When given the opportunity to voice their opinions and contribute to decision making, students feel valued, respected, included, and listened to (Smyth, 2006). Student voice is also critical to the development and maintenance of respectful student-teacher relationships and positive behaviours within school environments (Gillett-Swan et al., 2020). Students also have the right to be included in decision-making, as is described throughout international human rights instruments including Article 12 of the Convention on the Rights of the Child (United Nations, 1989). The Convention on the Rights of Persons with Disabilities (CRPD, United Nations, 2008), the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP, United Nations, 2007a), the Disability Standards for Education 2005, and the Australian Professional Standards for Teachers (Standards 3.5 and 3.6; AITSL, 2018) also establish clear obligations to enable and listen to student voice in all its forms (Gillett-Swan et al., 2020).

Students' involvement in decision-making must be authentic and meaningful. It has been noted that there can be a tendency within systems administered by adults to only seek certain views of certain children and young people, or only those views that a child or young person is able to

articulate in ways preferred by adults (Gillett-Swan & Sargeant, 2018). According to Smyth (2006), a genuine understanding of why some students disengage educationally, emotionally, and psychologically from school requires stakeholders to adopt an inclusive, nuanced, and mature approach to listening to students. For students who are disengaged from school, it will take a relational investment to re-engage in school and with teachers. To build these critical, trusting relationships with students, teachers and school leaders must listen and respond to student’s voices. There is evidence that students’ views or preferences may be disregarded or considered less reliable than the voices of adults, because they are perceived by adults to lack the insight or maturity to make informed decisions or, for some students, because they have a disability (McLeod, 2011). As a result, students are not routinely provided with opportunities to have input into what happens to them at school (Lundy, 2018).

In a school context, education providers must ensure that there is a clear awareness and acknowledgment of the different ways that a student may express themselves, particularly given the high prevalence of students with communication difficulties in Australian schools (McLeod & McKinnon, 2007). Under the DSE, schools are required to both make reasonable adjustments for students with disability *and* consult students about the adjustments that will be designed and implemented for them. Consultation processes must therefore be accessible, to ensure students are able to meaningfully participate in decision-making (Gillett-Swan et al, 2020). Student participation may also be promoted through the availability of representatives (persons who are able to independently support a child or young person to understand information and meaningfully participate in decision-making). This is particularly important for students in priority equity groups including students with disabilities, Aboriginal students, and students in care. Participation through or with the support of representation helps to overcome attitudinal, physical, cultural, social and communication barriers to meaningful participation in decision-making (United Nations, General Comment No. 7, 2018). Moreover, the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) states that “Indigenous peoples have the right to participate in decision-making in matters which would affect their rights” including “through representatives chosen by themselves” (United Nations, 2007a).

**4.6.2.1 Lundy model of participation**

To promote more consistent practices for including students in decision-making, guidance can be drawn from the four spheres of the Lundy model of participation.

<p><b>Space:</b> provide a safe space for the student to express their views, and encourage the student to do so without coercion or consequence.</p>	<p><b>Voice:</b> meaningful voice opportunities require adequate time provisions, appropriate information and adult receptiveness to listening to and acting upon children’s expressed views.</p>
<p><b>Audience:</b> ensure students’ expressed views and opinions are listened to and taken seriously, including attentiveness to verbal and non-verbal ‘voice’ expressions.</p>	<p><b>Influence:</b> ensure students’ perspectives are acted upon, and are given due weight in decision-making.</p>

(Lundy, 2007)

#### 4.6.3 Partnering with and responding to the concerns of Parents and Carers

In addition to the meaningful participation of students, international human rights instruments also require governments to establish and maintain effective partnerships with parents and carers, including by supporting their participation in decision-making about their child or young person's education (United Nations, 2016, paras 12(h), pp. 64, 70). This is in recognition of the special expertise and understanding of the student's support needs and preferences that parents and carers bring to decision-making processes, as well as their natural "authority which gives them a legitimate and critical place in school communities and at the decision-making table" (Mann et al., 2020, p. 336). The *Disability Standards for Education 2005* (DSE) require that education providers consult with students with disability, their parent or carer, and other relevant persons to ensure the student is adequately supported and their right to reasonable adjustments is protected (Mann et al., 2020). There is strong evidence showing that family-school engagement is associated with child outcomes with improved engagement predicting youth prosocial skills and decreases in youth concentration problems, disruptive behaviours, and emotion dysregulation (Smith et al., 2019).

Families of students with hyperactive and disruptive behaviour typically have lower school engagement and poorer teacher-student relationships. However, interventions that bring caregivers and teachers together as collaborative partners have both strong and lasting positive effects on student behaviour, as well as adaptive and social skills (Sheridan et al., 2019). Key to success is the development of respectful, reciprocal relationships (Graham, 2010) through the adoption of a 'partnership model' as opposed to a 'transmission model' (Mann et al., 2020). In a partnership model, parents and carers are listened to and treated as equal partners with knowledge and expertise to share. School leaders model quality communication practice and implement school policies that privilege the sharing of positive news and information, with sensitive communication of incidents in non-judgmental and non-confrontational ways, and provide designated spaces for parents and carers to use and congregate at the school.

Mann and colleagues (2020) offer five principles to support schools to develop productive parent-school partnerships, which can inform the school's values, and include:

1. Valuing the expertise of parents
2. Prioritising positive, good quality relationships with parents
3. Openness to working with parents and others
4. Building effective communication with parents
5. Developing school policies and practices that support parent-teacher partnerships

A recent literature review prepared for the Government of South Australia Office of Non-Government Schools and Services (O'Hehir & Savelsberg, 2014) identified that advocacy is one way that parents and carers often participate in their child's education and positive parent-teacher relationships can be developed through shared decision-making opportunities (O'Hehir & Savelsberg, 2014). Lamb (2009) described that positive parent-teacher partnerships build confidence between stakeholders, resulting in working relationships that can be sustained even when parties experience instances of disagreement about education provision. While positive parent-teacher relationships can serve to minimise the need for parents to engage in complaint or appeal processes, these mechanisms, as well as external advice and advocacy support are essential to ensure that processes are fair and all stakeholders remain accountable for practices and processes that take place. Best practice in fostering productive parent-school

partnerships also includes access to independent, transparent, effective, timely and enforceable complaint and appeal processes.

#### 4.6.4 Complaints and appeals processes

Internal and external complaints processes are an essential accountability measure that enable grievances about actions, the behaviour of professionals, or decisions to be investigated (Harris, 2011). Effective complaints procedures are accessible, where complainants can utilise complaints processes either independently or with advocacy support. In England, various frameworks for processing complaints have existed over time. Complaints processes regarding students with disability have existed under the jurisdiction of the Ombudsman since the mid-1970's (Harris & Smith, 2011). During a trial period from April 2010 to July 2011, the Local Government Ombudsman (LGO) had jurisdiction over schools regarding all internal matters (Sandford, 2017). Since then, processes have shifted, and the scope of the Ombudsman role has been reduced. A lack of ongoing complaints handling for all school issues by the LGO has been cited as “a lost opportunity to develop a coherent and independent framework, capable of operating consistently, for resolving complaints in this field (Harris & Smith, 2011, p. 91). A governance review of Local Government Ombudsman Services in 2013 recommended that one LGO Government Ombudsman preside over an integrated process for handling complaints against bodies within the jurisdiction of the Local Government Ombudsman Service. This resulted in the creation of the Local Government and Social Care Ombudsman (hereafter, “the Ombudsman”; Gordon, 2013).

At present, England's Department for Education and local authorities provides guidance to all government schools and early childhood settings to publish their own complaints procedures, relevant to their context. It is recommended that procedures comprise of two stages, where the second stage is an appeal stage (Department for Education, 2020). These procedures cover all aspects of school operations, facilities and services except where separate statutory procedures exist (Department for Education, 2020). The Ombudsman can investigate some school related issues related to admissions, exclusions and students with disability. For example, the Ombudsman processes complaints related to statutory assessments of special educational needs. An example is when the Ombudsman is asked to investigate a complaint that a council has failed to appropriately address a student with disability's educational requirements, either through delays in making an assessment and designing an Education Health and Care Plan (EHCP), or failure to implement or review an EHCP (Local Government and Social Care Ombudsman, 2019).

The Ombudsman also handles some aspects of complaints from parents and carers whose child has been permanently excluded from school (Local Government and Social Care Ombudsman, 2020). The Ombudsman *cannot* review actions by the school, its decision to exclude the child or the governors' confirmation of the exclusion decision. The Ombudsman *can* review complaints about permanent exclusions from council community, foundation, voluntary controlled and voluntary aided schools as the review panel is set up by the council.


Parents and carers have the right to request an independent review of the governor's decision to confirm the exclusion, conducted by the local council. The Ombudsman is not part of this panel process, but it can receive complaints about the procedures, fairness, and legality of the panel process, and can look at whether the requisite experts were involved in the review panel, if the child who was excluded has a disability, and can consider whether the exclusion was

unlawful (Local Government and Social Care Ombudsman, 2020). Examples of unlawful exclusions are those that involve disability discrimination or when “informal” or unofficial” exclusions take place (Local Government Ombudsman, 2014). This system is limited by the fact that recommendations provided by the Ombudsman are not legally enforceable, however, councils are reported to largely implement the Ombudsman’s recommendations (Local Government Ombudsman, 2014).

Online materials that outline what aspects of complaints can be handled by the Ombudsman, and under what circumstances, are well-presented in the online resources available to parents and carers. However, deciphering which process must be followed requires parents and carers to navigate and interpret complex terminology that may be difficult to interpret, especially for those new to the system (Local Government and Social Care Ombudsman, 2019; 2020). The English system also requires that parents and carers identify which complaints process must be followed, and for which issue/s. Depending on the complaint, more than one process may be activated concurrently, and processes may become complicated if complaints pertain to issues that go across more than one jurisdiction. Difficulty navigating the available complaints processes are likely to particularly impact parents and carers who experience disadvantage or who experience literacy difficulties, resulting in reduced engagement with complaints processes (Harris, 2011).

In Scotland, dispute resolution procedures regarding the education of students with disability (referred to as “additional support needs” in the Scottish context) include formal mediation, independent ‘adjudication’, tribunal, and making a complaint to Scottish Ministers (mygov.scot, 2020; Scottish Government, 2017). These mechanisms are mandated under the Scottish Schools (Parental Involvement) Act 2006. Independent, free mediation services must be available to support parties to resolve differences relating to disagreements, with the assistance of an impartial mediator. Children cannot request mediation, but an education authority must seek and take the views of children and young people into account during mediation. Where disputes cannot be resolved through mediation, parents or carers or young people can make a request for dispute resolution by an external, independent adjudicator. Adjudication seeks to review all information relating to the case and make recommendations to both parties on how to resolve the disagreement and ensure that the child’s learning is supported, within the terms of the Act. It is expected that both parties will accept the outcome of adjudication, but education authorities do not have the legal obligation to implement the recommendations of the adjudicator (Scottish Government, 2017). Parents or carers or young people can refer the dispute to the Scottish Ministers if recommendations are not implemented. The Additional Support Needs Tribunals will hear references from parents, and young people on issues related to co-ordinated support plans, enrolment refusals and issues relating to post-school transitions (Scottish Government, 2017). Making a Section 70 complaint to Scottish Ministers can take place if a stakeholder believes that an education authority has not upheld its legal obligations regarding the education of a student with disability.

Extensive, accessible and transparent information is available to parents and carers of students with disability who wish to seek support, advice and/or advocacy about handling education disputes. Enquire is the Scottish advice service for parents and carers, professionals and young people who are seeking advice, information or support about education legislation or support services (Enquire, n.d.). Enquire is funded by the Scottish Government, but is managed by Children in Scotland, a registered charity. Let’s Talk ASN is the National Advocacy Service for



Additional Support Needs, which can be accessed by anyone who has a right to make a reference to the Additional Support Needs Tribunals for Scotland and is also funded by the Scottish Government (Let's Talk ASN, n.d.). Despite the presence of these advocacy and support services, independent mediation services are under-used by parents and carers and schools (Wright et al., 2012). Research conducted by Wright and colleagues (2012) revealed that half of the 26 parents and carers interviewed did not know about the mediation services that were available to them and their children. This points to a lack of accessible information for parents that outlines the support and services available to them and their children. Even when they did know about the presence of mediation, some parents and carers reported being advised against using mediation, as it was purported to “get you nowhere” (p. 1107). Often, these experiences resulted in parents and carers lacking confidence to communicate with their school team and feeling guilty and powerless, despite their overwhelming desire to try to maintain a positive relationship with their child's school.

Recent advancements in Scotland's Education Act 2016 have foregrounded children and young people's rights, particularly children aged 12-15 years who have a disability and capacity to make a tribunal reference or claim (Health and Education Chamber, n.d.-a ), and where the young person's wellbeing will not be negatively impacted by engaging in the disputes process. The term “capacity” is defined here as the child's “level of maturity and understanding”, which is determined by the Tribunal (Health and Education Chamber, n.d.-b). Children have the right to seek advice and information, request assessments, or request that the local authority make a determination on whether a Coordinated Support Plan (CSP) is necessary. They can also make a reference to the Tribunal if they disagree with the outcome, requirement or content of their CSP. If children aged 12-15 believe that they have been discriminated against because of their disability, they can make a claim to the Tribunal (Riddell & Carmichael, 2019). My Rights, My Say is a free support service that is available to all students who wish to access information about their rights and offers independent advocacy support (My Rights, My Say, 2020).

While the foregrounding of children's voices and their rights has the potential to be transformative, these processes have not gone without criticism (Riddell & Carmichael, 2019). The complexity of the adult-designed legal frameworks has been highlighted, and the risk that children are expected to navigate this system in order to exercise their rights is present. There have also been concerns raised about the power of local authorities to determine the “capacity” of children, and whether or not they should be allowed to exercise their rights (Riddell & Carmichael, 2019). The research conducted by Riddle and Carmichael (2019) pointed to the service delivery-centric nature of the system, where some professionals reported that the existing processes “accorded too much power to parents” and that “professionals should have the power to identify and meet children's needs without external interference” (p.p. 475-478). The expert-driven culture that these statements reflect are not consistent with the values that underpin positive parent-teacher relationships, such as reciprocity, trust and a commitment to holistic approaches to children's education (Mann et al., 2020). The current emphasis on the rights of children aged 12-15 years who have a disability and capacity to make a tribunal reference or claim has led to an apparent “privileging” of this group (Health and Education Chamber, n.d.-a). Currently, it is difficult to ascertain how children who do not fit the narrow criteria for making a reference or claim can be involved in dispute procedures. Some authors have also signalled a risk that the Scottish approach to students' involvement in decision



making may prove tokenistic if professionals resist opportunities for students to have their say (Riddell & Carmichael, 2019).

In the United States, the Individuals with Disabilities Education Act (IDEA) mandates the right for children with disability to access free education. The IDEA Part B regulations outline the procedural safeguards that ensure that the right to free education is protected, obligating each state to have dispute resolution procedures available to parents and carers (Mayes, 2019). The IDEA regulations do not enable students themselves to lodge disputes. Disputes can be heard through three processes in the US, reflecting increasing levels of adversary: mediation, a complaint to the state education agency, or through a due process complaint. These dispute resolution options apply to decisions about the identification, assessment, and placement of students with disability (Nowicki, 2019).

Mediation is a confidential process that is paid for by the state educational agencies and facilitated by a randomly selected, trained, impartial mediator. Mediation can be initiated by parents or the school district. If an agreement is reached through mediation, the outcome is legally binding, yet parents cannot have legal counsel present at mediation (McMurtrey, 2016). Individuals or organisations can also file a state complaint if they believe that a public agency has violated the IDEA. The state's written decision must outline their findings and conclusions, and must include steps for implementation of the decision, including actions required to achieve compliance (Nowicki, 2019). Due process complaints are a request for a formal hearing, conducted before an impartial hearing officer where evidence is presented and witnesses give evidence under sworn testimony (Nowicki, 2019). This is a legal proceeding that involves attorneys and expert witnesses. It is a costly and time-intensive dispute resolution process, and given the formal nature of the process, it is typically more adversarial than other dispute resolution options. Mayes (2019) describes that in addition to the degree of the adversarial nature of the dispute resolution processes available to parents and carers, other factors, such as the amount of control over an outcome and finality of the outcome also impact the differences between these process, and their likely level of uptake.

In 2016-2017, 6.8 million students aged three to 21 accessed education under IDEA Part B (Nowicki, 2019). In this same period, there were 35,142 instances of mediation, state complaints, and due process complaints nationwide in the US (Nowicki, 2019). Over time, the number of dispute resolution requests received have been gradually declining by around 2 percent. In addition, since 2004, the number of due process complaints has declined, but the number of mediation requests has increased. Despite this, more due process complaints are received annually than other options, with over half of the dispute resolution options used being due process complaints (Nowicki, 2019).

As discussed in Section 4.6.3, parent-school partnerships are grounded in effective communication between parties. This includes an assumption that parties have a shared understanding of written documents, which may include letters, support planning documents, and legal texts (Gray et al., 2019). However, there may be an imbalance in access to information. While school staff typically have tertiary-level qualifications, parents and carers may experience literacy difficulties or have engaged in limited secondary or tertiary education. This can mean that parents and carers do not have equal access to making use of documents relating to their children's educational rights. In 2019, Gray and colleagues analysed the readability of the IDEA Part B procedural safeguard documents. They found that all

documentation pertaining to the IDEA procedural safeguards (including dispute resolution procedures) are currently presented using text that reflects a greater than Grade 11 reading level. Given that a reader will typically stop reading material that is too difficult to comprehend, the complex linguistic nature of the IDEA procedural safeguards documents are unlikely to be accessible to all parents and carers of students with disability. This may impact a parent or carer's confidence to commence dispute resolution procedures, or may inhibit a parent's or carer's participation in such processes completely.

Research is emerging that points to other possible reasons for the low numbers of dispute resolution procedures being processed in the US. For example, the inability for parents to have legal counsel present during mediation is a significant issue, as it does not enable a level playing field between parents and the education provider (McMurtrey, 2016). A lack of experience with the mediation process can mean that parents are caught in an adversarial environment due to lack of knowledge of schools' obligations, and a result that does not meet their child's requirements yet is legally binding. McMurtrey (2016) suggests that both parties should have an attorney present at mediation, as this would lead to a power balance and equal access to understanding of the legal process and schools' obligations.

These international examples demonstrate the importance of complaints and appeals processes, but also highlight considerations that should be observed during the design and implementation of complaints and appeals mechanisms in other jurisdictions. The English example provides evidence for the effectiveness of complaints processes that take place through an external agency, such as an Ombudsman. The English model that was piloted in 2010-2011 reflected an accessible, coherent, consistent and independent framework for parents and carers to navigate and participate in (Harris & Smith, 2011). However, a pitfall of the English system is that outcomes achieved through the Ombudsman are not legally binding. The inclusion of procedural safeguards within the US IDEA Part B regulations ensures that the outcome of dispute resolution procedures (including mediation outcomes) are enforceable by law, further protecting students' access to education. The Scottish system is the only known example that enables young people to initiate dispute resolution procedures, demonstrating that complaints and appeals mechanism can foreground the rights of students. However, mechanisms should be designed to ensure that all students can participate in complaints and appeals processes, not just select groups. All three systems highlight the need for independent, free and accessible advocacy services for students, parents and carers. Finally, the procedural and linguistic complexity of the information available to students, parents and carers must be considered, to ensure it is accessible, clear, and comprehensible.

#### 4.6.5 Positive Teacher-Student Relationships

The teacher-student relationship has enduring and widespread impacts in the life of a child, with extant research suggesting that it serves a protective function (Buyse et al., 2008; McGrath & Van Bergen, 2015; O'Connor et al., 2011; Quin, 2017). Positive relationships between students and teachers flourish in classroom environments where students feel emotionally supported (Walker & Graham, 2019). When students feel supported by their teachers, they are more engaged in the learning process, and this is associated with greater academic gains (Hughes & Kwok, 2003). In contrast, students who experience poorer quality relationships tend to be less behaviourally engaged in the classroom (Engels et al., 2016). For students with learning difficulties, or those from lower socio-economic backgrounds, teacher-student

relationships are particularly influential in relation to engagement and achievement (Roorda et al., 2011). Moreover, the quality of teacher-student relationships during the early years of school continue to exert an influence in subsequent schooling years (Hamre & Pianta, 2001; O'Connor et al., 2011).

Longitudinal research shows that a negative relationship in kindergarten is predictive of poorer behavioural outcomes, more disciplinary infractions, lower academic achievement, and fewer positive work habits (Hamre & Pianta, 2001). *However, the findings also indicate that this trajectory can be altered when a quality relationship between student and teacher is established.* For students who experience behavioural challenges on arrival to school, a positive teacher-student relationship protects against future behavioural difficulties, whereas a negative relationship is associated with continued problems in subsequent school years (Hamre & Pianta, 2001). In general, poorer relationships are associated with higher numbers of disciplinary referrals and disruptive behaviours (Quin, 2017), and may also be linked to early school leaving with research showing that relationship quality tends to deteriorate in the years preceding school dropout (Barile et al., 2012; Lan & Lanthier, 2007). However, when teachers in five US schools were engaged in an intervention and supported to approach discipline with an empathic, rather than punitive mindset, suspension rates were halved, and students' feelings of being respected by their teachers increased (Okonofua et al., 2016a). Similar interventions for pre-service teachers effectively reduced implicit biases. These findings underscore the importance of developing and maintaining high quality relationships between teachers and students across the school years, especially for students with learning and behavioural difficulties (McGrath & Van Bergen, 2015).

#### 4.6.6 School Connectedness

A key protective factor for students is their sense of connectedness to school, which relates to the degree to which they feel valued, respected, and accepted within the school community (Shochet et al., 2006). Research demonstrates that school connectedness is positively related to academic outcomes (Anderman, 2002) and emotional well-being (Frydenberg et al., 2009), while negatively related to mental health symptoms such as anxiety, depression, and general functioning (Shochet et al., 2006). The latter association appears to be unidirectional to some degree with studies demonstrating school connectedness to be a stronger predictor of subsequent mental health, than the reverse (Lester et al., 2013; Shochet et al., 2006). When students feel more connected to school, they are less likely to engage in risky behaviours (Bond et al., 2007; Carter et al., 2007; Chapman et al., 2011; Resnick et al., 1997) or drop out of school (Bond et al., 2007). Moreover, a greater sense of school connectedness assists students to navigate key life transitions, such as the shift from primary to high school (Lester et al., 2013). In turn, a good transition into high school fosters school connectedness during subsequent schooling years (Waters et al., 2010).

As with positive teacher-student relationships, the protective element of school connectedness may be particularly important for students from disadvantaged backgrounds (Nasir et al., 2011; Niehaus et al., 2012), and also for students with disability (Svetaz et al., 2000). For students with a disability, higher levels of school connectedness have been significantly associated with reduced violence, suicide attempts, and emotional distress (Svetaz et al., 2000). In summary, school connectedness can act as a protective buffer against a range of emotional and behavioural challenges throughout pivotal years of development, and can reduce the likelihood of adverse outcomes, such as poor mental health and engagement in risky behaviours.

Exclusionary discipline, however, severs a student's connectedness with their school, and damages relationships with peers and teaching staff, which can negatively influence student behaviour. For example, McNeely et al. (2002) found that school connectedness is reduced in schools that suspend students for minor infractions. To minimise the risks associated with exclusionary discipline, schools must take steps to support student connectedness, and the maintenance of student-teacher and peer-to-peer relationships during a disciplinary absence.

#### 4.6.7 Restorative practice

An important form of conferencing for supporting student connectedness is the use of restorative practices, which is supported by a growing body of literature internationally and has become a mainstream component of education policy in the United States (Gonzalez, 2016). Restorative practices have been demonstrated to promote the development of healthy and trusting relationships within schools (and thereby school connectedness), conflict resolution skills (Gonzalez et al., 2018), social emotional learning (Schumacher, 2014), and improved academic performance (Jain et al., 2014). Restorative approaches may also reduce reliance on punitive disciplinary practices (Armour, 2016), address disproportionality in school discipline (Payne & Welch, 2015), and mitigate the short and long-term consequences of exclusionary discipline (Gardella, 2015). While restorative practice models vary, whole-school approaches are widely accepted as the most successful models (Gonzalez et al., 2018) as they “establish a nonauthoritarian culture of high expectations with high levels of support that emphasises doing things with someone as opposed to doing things to or for someone” (Armour, 2016, p. 1017). Whole-school approaches involve tiered interventions:

- (i) the primary tier which engages all members of the school community by creating a restorative culture grounded in shared values and skills, and embedding restorative practices into the curriculum;
- (ii) the secondary tier which involves interventions for specific individuals to focus on repairing harms and maintaining relationships; and
- (iii) the tertiary tier which involves more intensive interventions for the most serious of behaviours (Gonzalez et al., 2018).

In such a model, restorative practices are seen as a key teaching and learning component that builds and sustains school cultures that are relational, interconnected and interdependent.

Within a whole-school restorative approach, restorative justice conferences (within the secondary or tertiary tier) provide an alternative approach to exclusionary and punitive disciplinary practices which separates the behaviour from the student and focuses on maintaining school connectedness. Done effectively, such conferencing processes support students to collectively understand each other's position, understand their emotions and the impacts of the behaviours arising from them, and how to repair harm and restore relationships. Restorative practices can and should be used in appropriate circumstances as an alternative to exclusionary discipline, and also offer value in supporting a student's reintegration into the school community following an exclusionary practice. Continuing to rely on escalating punitive consequences is inconsistent with best practice and human rights. As Gardner (2016) has noted, “the fact that schools continue to rely on escalating punitive consequences and that we have not created and implemented, on a systemic and structural level, alternative and more effective methods as the primary means of disciplining students represent a tragic failure of innovation and forward thinking in public education” (p. 23). Instead of punitive consequences such as detention or suspension, restorative interventions can provide the student an

opportunity to reflect on the impact of their actions, and to make amends (Thompson Eisenberg, 2016). There is a caution, however, on the use of restorative interventions which can be addressed using Functional Behaviour Assessment (FBA). A restorative intervention may be ineffective, for example, for students who experience perspective-taking difficulties unless the teacher makes adjustments (Cebula & McCluskey, 2019). A further caution is that without addressing structural racism, restorative practices risk maintaining racial disciplinary disparity (Schiff, 2018).

#### 4.6.8 Trauma informed practice

Childhood complex trauma is a term used to describe both (i) the repeated exposure to traumatic events (such as abuse, neglect and/or family violence), which occur during sensitive periods of brain development, and (ii) the long-term impact that childhood complex trauma can have on children and young people's wellbeing, emotional regulation, social interactions, attachment, and learning (Howard, 2019; Kliethermes et al., 2014). While it is difficult to ascertain precise numbers of students who experience childhood complex trauma, around one in 35 Australian children aged zero to 17 accessed child protection services in 2017-2018 (Australian Institute of Health and Welfare (AIHW), 2018). Using these numbers as a proxy for children and young people who are likely to have been exposed to abuse, neglect and/or family violence, these figures indicate that there will be students who have experienced complex trauma in most Australian classrooms. Traditionally, school psychologists and counsellors have led trauma-informed practice initiatives in schools (Costa, 2017; Gubi et al., 2019). However, given the likelihood that students who have experienced childhood complex trauma will be present in most classrooms, positive, collaborative, whole-school and classroom-based trauma-informed educational approaches that are supported by school leadership are now considered best practice (Thomas et al., 2019). Recently, systemic frameworks have also become available, to guide to trauma-informed schooling at a system level (Howard, 2019).

In 2020, the Queensland University of Technology and the Australian Childhood Foundation published the National Guidelines for Trauma-Aware Schooling (see Table 4.3). Ten guidelines are outlined for education systems, and ten guidelines are stated for schools and early childhood providers (Queensland University of Technology & Australian Childhood Foundation, 2020). Common to both sets of guidelines is guidance regarding the importance of school leaders, educators and support staff engaging in high-quality, training in trauma-aware schooling. A range of trauma-informed professional learning opportunities for teachers and whole-school interventions have been described in the literature (Thomas et al., 2019). In Australian schools, a commonly adopted approach to trauma-informed practice is the Berry Street Education Model (BSEM; Berry Street, n.d.). The BSEM aims to support teachers to increase student engagement and facilitate students' self-regulation, social-emotional development, and academic achievement. The approach draws on evidence-based trauma-aware pedagogies, practices for student wellbeing, and positive education approaches. *It is critically important, however, for educators not to assume that behaviours indicate trauma, especially in relation to students with disability.*

Table 4.3. National Guidelines for Trauma-Aware Schooling

Audience	Guidelines
Schools and early childhood services	<p>Training on trauma-aware practices for school and program leaders</p> <p>Whole-staff training in trauma-aware schooling</p> <p>Targeted support for students living in care</p> <p>Acknowledgement that some students who have experienced complex trauma will not be identified. Therefore, whole-school approaches are needed</p> <p>Development of positive partnerships with parents and/or carers</p> <p>Development of positive partnerships with local child and adolescent support agencies and specialists</p> <p>Student-informed decision making, design of activities and participation in feedback processes</p> <p>Whole-of-school/program frameworks that support all students and develop the skills of all educators and other non-teaching support staff</p> <p>Implement support, supervision and reflective practices to support the wellbeing of educators and other non-teaching support staff</p> <p>Development of school policy frameworks that support trauma-aware schooling</p>
Education systems	<p>Training on trauma-aware practices for education system leaders</p> <p>Education system policy that upholds trauma-aware schooling</p> <p>Long-term implementation strategy and change management approach that is supported by governing bodies</p> <p>System-level implementation acknowledges and responsive to the cultural and geographic diversity of Australian states and territories, and the varying needs of schools/programs and communities.</p> <p>A trauma-aware approach that is developed in consultation with Aboriginal and Torres Strait Islander peoples and leaders</p> <p>Particular consideration of education settings in remote areas, and for students who attend boarding school, are from refugee background, are in care and/or have a disability</p> <p>Cross-agency funding and staffing of training and support programs investigated as a cost-effective strategy</p> <p>Collaborations between education systems, universities, and other tertiary training programs</p> <p>Trauma-aware schooling principles should be included in pre-service teacher training and professional learning for educators and other professionals</p> <p>Education reform in trauma-aware schooling should be quarantined from political and leadership change</p>

#### 4.6.9 Quality Teaching

Quality teaching represents another important protective factor for students. Studies consistently show the positive effects of teaching quality not only for academic performance (Allen et al., 2011, 2013; Cadima et al., 2010; Lo-Casale-Crouch et al., 2018), but also in supporting students behaviourally and emotionally (Perry et al., 2007; Cadima et al., 2016; Rimm-Kaufman et al., 2005).

Teaching quality is defined and operationalised in numerous ways in the literature. Gore and Ladwig, in collaboration with the NSW Department of Education, developed a framework of quality teaching which encompasses intellectual quality, quality learning environment, and significance (students' perceptions of the value of their learning experience) (NSW DET, 2003). Research demonstrates that when these aspects of pedagogy are of a high standard, student academic achievement is improved (Ladwig et al., 2007), and disparities in achievement are reduced between low and high SES students, and Aboriginal and non-Aboriginal students (Amosa et al., 2007).

Hamre and Pianta (2007) conceptualise effective teaching in terms of how teachers instruct, interact with and engage students in the classroom. This framework of teaching quality is comprised of three key domains: instructional support, emotional support, and classroom organisation, each of which can be assessed directly through observation of teacher-student interactions. In classrooms where there is high instructional quality, students are more directly and positively engaged with the classroom teacher, learning through 'instructional conversations' and the provision of constructive feedback, which leads to greater on-task behaviour (Pianta et al., 2002). An emotionally supportive learning environment is characterised by sensitivity to students' relational and emotional needs, and their perspectives (Pianta & Hamre, 2009). Finally, well-organised classrooms tend to have effective behaviour management, a positive climate, and are conducive to productive learning experiences (Pianta & Hamre, 2009).

Classrooms with high instructional and emotional support have a positive impact on student learning, both in terms of academic gains (Allen et al., 2011; 2013; Curby et al., 2009), and also in supporting students' behavioural regulation and confidence in their own academic abilities (Perry et al., 2007). These environments are also important in fostering the development of social skills in the early years of school (Wilson et al., 2007). Students' perceptions of their learning experiences mirror these findings, with research demonstrating that students experience higher levels of academic motivation and achievement when they are in classrooms with teachers who are observed to be emotionally warm, sensitive, and responsive (LoCasale-Crouch et al., 2018).

Improving the quality of teacher-student interactions has been shown to enhance student academic outcomes (Allen et al., 2011). Specifically, 78 teachers participated in a randomised control trial intervention designed to foster greater sensitivity to student academic and developmental needs, encouraging the use of different instructional formats, and coaching teachers in how to promote students' higher order thinking. The trial produced positive effects on students' achievement scores in the year following the intervention, with effects enduring for an independent cohort of students (Allen et al., 2011).

Quality teaching can buffer against existing factors that might negatively influence a child's behavioural and academic outcomes. For example, a study by Hamre and Pianta (2005)


showed that, for children considered 'at risk' due to behavioural, emotional, academic, or demographic indicators, placement in a classroom with quality teaching instruction and emotional support during first grade was associated with academic performance comparable to their low-risk peers. In contrast, at-risk students who spent the year in a less supportive classroom environment experienced greater conflict with teachers and reduced academic performance. Similarly, Cadima et al (2016) found that students with lower self-regulation at the beginning of their preschool year showed enhanced development in this area when they were in classrooms high in instructional support, where reasoning, communication, and conceptual understanding were promoted. Professional development which specifically addresses the quality of teacher instruction has been demonstrated to reduce the racial disparity typically observed in suspension rates, with effects persisting beyond the study training period (Gregory et al., 2016). Not only did teachers who undertook the intervention issue suspensions more equitably across racial groups, but they also issued fewer repeated referrals to black students. The effective outcomes of the training programme were particularly associated with enhancements to teachers' instructional practices in the domains of higher order thinking and problem-solving. In summary, students are benefited enormously by teaching practices which engage the learner through instructional dialogue and evaluative feedback, which encourage and support higher order thinking and analysis, and which provide students with emotional support.

Initiatives to enhance the quality of teaching are best enacted through collaborative models of professional development (Bowe & Gore, 2017). Quality Teaching Rounds is a pedagogically-based approach to teacher professional learning (Gore et al., 2017), where colleagues work in professional learning communities, engage in professional dialogue about best practice, observe each other's classroom practices, and provide feedback and discussion about quality teaching practice (Bowe & Gore, 2017; Gore et al., 2017). A fundamental aspect of Quality Teaching Rounds are the structured observations and post-observation discussions, which are based on the Quality Teaching Framework (NSW DET, 2003). In 2014-2015, a cluster randomised control trial was conducted in 24 New South Wales government schools (Gore et al., 2017). The research observed three conditions: a "set" intervention, using Quality Teaching Rounds, a "choice" intervention, where Quality Teaching Rounds were adapted to suit the school context, and a wait-list control group (Gore et al., 2015; Gore et al., 2017). Each of the three conditions were observed before the interventions began, after the intervention concluded and six-months post the interventions. The Quality Teaching Rounds intervention was found to have positive effects on the quality of teaching, on teacher recognition, and on teacher morale (Gore et al., 2017).

#### 4.6.10 Culturally Appropriate Pedagogy

As a modern diverse society that has arisen from a penal colony that appropriated the lands and destroyed the livelihoods of the peoples indigenous to this country, Australia cannot continue to adopt unadjusted practices and programs from overseas in the naïve hope they will work the same way here. Seldom has that approach proved successful. Unlike New Zealand, our understanding of Indigenous cultures is still embryonic, and our embrace of Indigenous knowledges is localised and episodic, rather than systemic. These weaknesses make school practices vulnerable to tokenism and unconscious racial bias (Lowe et al., 2020). Well-meaning efforts to acknowledge and include Indigenous Australians as the original owners of these lands and the world's oldest civilisation too often occur in the form of special activities during NAIDOC





week, an Aboriginal flag on school grounds, and attempts to enact the Indigenous cross-curricular perspectives of the Australian curriculum that can be successful but are sometimes not (Keddie et al., 2013). For example, earlier this year the documentary *"In my blood it runs"* (Newell, 2019) highlighted the fraught nature of this country's history and how important it is to teach it with sensitivity, honesty, and respect. The documentary also highlighted the impact on Indigenous students when this history is not taught well and when those students are treated as problems to solve or remove rather than intelligent, independent beings with rich ways of knowing, seeing and interacting with the world.

In Australia, there "remains a pervasive deficit view of Aboriginal students and their academic potential" (Morrison et al., 2019, p. 21). Beliefs and attitudes inform pedagogical practice, particularly when it comes to classroom management and school discipline. Deficit views informed by racial bias are a key factor in the disproportionate overrepresentation of historically marginalised groups in exclusionary discipline and segregation internationally (Waitoller et al., 2010), and Australia is no exception (Graham, 2012; Sweller et al., 2012). Recent comments, for example, made by former Prime Minister Tony Abbott that Indigenous overrepresentation in the justice system is simply a reflection of their higher offending rates, despite evidence that Indigenous Australians are "more likely to be questioned by police, arrested, refused bail and sentenced to prison" (Karp, 2020, np), betray the deeply held assumptions of non-Indigenous Australians when thinking about the complex social inequalities affecting Indigenous Australians. Teachers are forged in the same society as our politicians and some hold similar assumptions. Indeed, teacher education students arrive at university already imbued with perspectives they have learnt from their social networks, as well as their own exposure to stories in the media and the ways in which Australian history and Indigenous cultures were (or were not) taught at their school. Disrupting deficit views and promoting strengths-based perspectives about Indigenous students, knowledges and cultures is a key focus of Indigenous education units in university initial teacher education, however, in creating cognitive dissonance those efforts can also reinforce negative essentialist stereotypes (Auld et al., 2016). These stereotypes can affect how educators perceive the motivations and actions of Indigenous students, which in turn affects how they respond to those students.

As discussed in section 4.1.10.2, Indigenous students are significantly overrepresented in exclusionary discipline statistics, as well as in satellite settings and early school leaving. Although there are no datasets to judge the degree and extent of this problem nationally, all indicators point to the systemic and multidimensional nature of this problem. As such, it is not something that can be "fixed" by changes to behaviour management policy or practice. Moreover, as Partington et al. (2001) noted almost two decades ago, classroom management is "not a bag of tricks that can be produced as needed" (pp. 74), and that relationships are central to working productively with Aboriginal students. More recently, Llewellyn et al. (2018) reviewed the international research literature and found only five studies that focused specifically on behaviour management for Indigenous students and these were published between 1990 and 2008. Common across the five studies were instances of cultural misunderstanding and culturally inappropriate expectations of Indigenous students. The review authors also note the assimilationist potential of behaviour management and the use of exclusionary discipline to exclude Indigenous students when they could not or would not assimilate (Llewellyn et al., 2018). Also common across these five studies was the importance of positive and respectful teacher-student relationships. Indigenous students have themselves

identified positive relationships as foundational to learning (Lewthwaite et al. (2017), as well as the use of cultural bridges to promote learning, explicit support of literacy demands, clarity of learning objectives, differentiation to accommodate cultural diversity, pedagogical expertise, and “high expectations but with mechanisms to support and monitor student performance behaviour” (pp. 86-87).

The overrepresentation of Indigenous students in school discipline statistics indicates that a more inclusive approach to education is needed in Australia, and approaches such as ‘Culturally Appropriate Pedagogy’ offer educators with a way forward. South Australian Professor of Education, Lester-Irabinna Rigney (2001, 2006), foregrounds four practices that are key to culturally appropriate pedagogy: (a) empowering students; (b) reinforcing the integrity of cultural knowledges; (c) privileging Indigenous voices, knowledges and interests; and (d), building community relationships. These practices resonate with what Indigenous students themselves say they want. In an extensive review of the international literature on culturally responsive pedagogy, Morrison et al. (2019) argue that Aboriginal students are looking for positive, authentic and mutually respectful relationships with their teachers, culturally safe spaces, recognition and valuing of Aboriginal identity and culture, and an ethos of high expectations as opposed to deficit views of Aboriginal people.

Morrison et al. (2019) suggest that a pedagogy that is culturally appropriate for Australian schools requires that educators:

- hold high expectations of Indigenous students with no deficit thinking, stereotyping and devaluation of culture or family;
- respond to students in caring and supportive ways;
- develop quality relationships characterised by trust between teachers and students, and authentic community engagement;
- perceive diversity as an asset and engage in strengths-based approaches that value what children bring to school and the knowledge they already have;
- value, take an interest in and make explicit connections to children’s lives outside the school;
- are critically literate of texts and critically conscious of the social, cultural, economic, political dimensions of their life-worlds

To support a commitment to embedded, whole-school approaches to schooling for Australian Aboriginal students, Lowe and colleagues (2020) have introduced the notion of ‘culturally nourishing schooling’, which places Indigenous knowledges and sovereignty at the centre. The model foregrounds both culturally responsive education experiences and high-quality education (Lowe et al., 2020). Four elements underpin the culturally nourishing schooling model.

- *Country* is a foundational concept, which extends from Aboriginal people’s connectedness to place and moral ways of being, into classroom practices that are based on relationships, repetition, and pedagogies that value learning as constant and lifelong (Harrison & Skrebneva, 2019; Lowe et al., 2020).
- *Cultural inclusion* refers to cultural and language programs that are embedded within the core business of schooling. This element is driven by partnerships between educators and community members.
- *Epistemic mentoring* is an element that foregrounds the positive opportunities that arise from Aboriginal people mentoring non-Aboriginal teachers and school leaders to have

confidence and skills to implement culturally responsive curriculum and pedagogy (Lowe et al., 2020).

- *Professional learning* is the fourth element of culturally nourishing schooling. To reject the policies of exclusion and assimilation that have historically shaped the cultural pedagogies experienced of Aboriginal students, culturally nourishing schooling acknowledges that teachers require professional support to improve the quality of culturally responsive teaching (Lowe et al., 2020).

This model and others offer a starting point for reorientation of understanding and responses to culturally responsive education in Australia. The practices they describe align with the values of and can be enacted through the implementation of systemic inclusive education reform.

#### 4.6.11 Inclusive education

Inclusive education is as much a philosophy as it is a collection of practices (Graham, 2020). It has been described as a *process*; one that seeks to increase students' access to and participation in curriculum, pedagogy, and assessment, while also decreasing their exclusion from curriculum, pedagogy, and assessment (Booth, 1996). While inclusive education theory has been driven by disabled people, activists, and scholars, and is informed by the social model of disability, it is—in fact—about *all* learners. This is because the practices that improve access, participation and learning of students with disability benefit *all* students (de Bruin, 2020). These practices are not 'special' and do not require the development of individual lesson plans for every student in a class or a specialist teacher to deliver them. Indeed, the mainstay of inclusive education is high-quality classroom teaching using evidence-based practices supported by proactive planning of lessons to anticipate and remove possible barriers to access and participation.

An increasingly well-known approach to support this planning is Universal Design for Learning or UDL which draws on the principles of universal design, which first emerged in the 1950s and was then taken up and developed by the field of architecture (Cologon & Lassig, 2020). Universal design is consistent with the social model of disability which conceptualises disability as the result of the interaction between a person with an impairment and a barrier that prevents them from accessing and participating in an activity on the same basis as a person without a disability (Graham et al., 2020c). Teachers engage in inclusive practice, for example, when they cater for students with language and attention difficulties by providing clear learning objectives and ensuring they provide multiple means of representation (Graham & Tancredi, 2019); for example, providing worked examples on the board and/or written instructions to supplement their verbal whole-class instructions. Australian teachers are also obligated under the *Disability Standards for Education 2005* (Cth.) to provide reasonable adjustments for students with disability. An example of a reasonable adjustment is to follow whole-class verbal instruction by checking in with individual students with disability to ensure they understand the instructions and to help keep them on task (Tancredi, 2018). Clarity of learning objectives and the intelligent use of a variety of modalities and materials are known indicators of quality teaching (Hamre et al., 2007). The key, in inclusive education, however, is the *accessibility* of curriculum, pedagogy, assessment and the environment. Accessibility is impacted by a multitude of factors—including but not limited to pace, volume and alignment of instruction, as well as visual, procedural and linguistic complexity (Graham & Tancredi, forthcoming; Graham et al., 2018)—that do not receive as much attention in the general education research literature.

Core to inclusive education is the concept of changing education to fit the child, not changing the child to fit an education that was never designed with all children in mind. This is one of the key differences between inclusive education and ‘special’ education, which was developed before the civil rights and deinstitutionalisation movements of the 1950s and 1970s (Davis et al., 2020), and well before the emergence of the social model of disability. Special education is historically underpinned by the medical model of disability, which perceives impairment in terms of deficit and a lack that must be remediated. The medical model has been the root of much pain and disempowerment of disabled people whose voices are ignored and to whom painful, humiliating, and dangerous things have been done in the name of therapy, treatment, and cure. These important philosophical differences and the practices that have been and are still are done to disabled people—*often without consultation or consent*—sit beneath the core principles of inclusive education, which are reflected in international human rights conventions and legislation. As discussed in Chapter 3, these principles include the right to be included in decision-making (United Nations, 2016), and the obligation that education providers must consult students with disability before designing and implementing adjustments (DSE, 2005). These rights and obligations are the hard-fought concessions won by disabled activists who in the 1970s fought for the right to self-determination and representation using the phrase, “nothing about us, without us” (Charlton, 2000).

Even now children with disability are subjected to practices that would not be tolerated for children without disability. There are regular reports in the media of the use of restrictive practices; students with disability being secluded in rooms, cages, or cupboards; their parents are told that their child cannot come to school unless medicated or that they should enrol in another school more able to accommodate them. Despite gatekeeping being illegal under the *1992 Disability Discrimination Act* (Cth.), we hear all too often of enrolment being denied or discouraged to children and young people with disability (Poed et al., 2020). It is for this reason that systemic inclusive education reform is an urgent necessary first step to meeting Australia’s legal obligations as per the Convention on the Rights of Persons with Disabilities (CRPD; United Nations, 2008). As part of that reform process, the frameworks and principles that have guided educational responses to students with disability need to change such that they are not incompatible with inclusive education and do not conflict in practice. The question is how to bring all of this together at a system level, whilst also accounting for culturally appropriate pedagogy, quality teaching, social-emotional learning, student voice and participation, parent and carer partnerships, positive teacher-student relationships, school connectedness, restorative practices, and trauma-informed practices. One solution that has emerged from the United States and which has been implemented with success in multiple states, including Kansas, Maryland and Vermont, is a systematic school improvement framework named Multi-Tiered Systems of Support (Bohanon et al., 2016).

#### 4.7 MULTI-TIERED SYSTEMS OF SUPPORT (MTSS)


MTSS is an evidence-based unifying framework that is implemented by school leaders and educators as part of a system-wide general education program (Burns et al., 2016; Harlacher et al., 2013). The focus of MTSS is the provision of instruction and intervention that is responsive to students’ learning progress and requirements, across three domains: academic, social/emotional development, and behaviour (Adamson et al., 2019; Coyne et al., 2018; Weist et al., 2018). The aim of MTSS is to minimise and prevent academic under-achievement and

disruptive or unsafe behaviour and promote social/emotional development. Often, MTSS is adopted by whole school districts in collaboration with, within and across schools. Importantly, MTSS is not a program or a resource package, but a problem-solving approach (Adamson et al., 2019; Pullen et al., 2019). MTSS is data driven, where research evidence informs the selection of instructional approaches and interventions that are used in classrooms, and student data is used to ensure that practices are effective and are being implemented with fidelity (Harlacher et al., 2013). Using these data to then provide pre-corrections, increase teaching of pro-social skills and opportunities to practice, address academic difficulties, and clarify expectations are all critical elements of MTSS (Green et al., 2017). MTSS is distinct from other tiered systems because of its dual focus on instruction and intervention, and school improvement (Bohanon et al., 2016; Jimerson et al., 2016). For MTSS to operate successfully, it is imperative that the data collected and used to inform decision making is high-quality, and that the MTSS framework is supported by stakeholders, both at a school and system level (Pullen et al., 2019).

MTSS is deployed across three tiers in a continuum that increases in intensity (Burns et al., 2016; Sugai & Horner, 2009). Critically, the tiers do not describe the students that access instruction at any tier. The tiers describe the type, level, and intensity of instructional intervention (Adamson et al., 2019; Gamm et al., 2012). **Tier 1** (core, high-quality, universal instruction and supports) is the general academic, social/emotional and behaviour instruction that is provided to all students (Adamson et al., 2019; Coyne et al., 2018; Gamm et al., 2012; Weist et al., 2018). Critically, practices at Tier 1 must be rigorous, evidence-based, and high-quality. During Tier 1, students are engaged in instruction, taught key academic, social/emotional and behaviour skills, teachers model appropriate behaviour and students are given practice and feedback on their progress (Adamson et al., 2019). Universal screening and data collection take place, through cycles of reflection, where teachers evaluate students' response to instruction and support, analyse difficulties that students are experiencing and implement evidence-based supports with fidelity.

**Tier 2** (targeted or secondary supports) practices are implemented for students who continue to experience difficulties, and for whom data indicates that Tier 1 alone has been insufficient to support student academic, social-emotional and/or behaviour progress (Adamson et al., 2019; Coyne et al., 2018; Weist et al., 2018). Tier 2 instruction is provided *in addition to and not in place of Tier 1*, often in a small-group format. Students who are accessing Tier 2 support are assessed and monitored more frequently than students who access Tier 1 only (Gamm et al., 2012; Sugai & Horner, 2009). Again, cycles of reflection, evaluation of students' response to instruction and support, and analysis of any ongoing difficulties will determine whether Tier 3 supports are needed. **Tier 3** (tertiary or intensive interventions) are provided to a few students who require individualised academic, social-emotional and/or behavioural instruction (Adamson et al., 2019). The frequency and intensity of support is responsive to individual students' requirements, based on ongoing data collection and student responsiveness to evidence-based interventions that are implemented with fidelity (Adamson et al., 2019; Gamm et al., 2012). Critically, the instruction and intervention provided at Tier 1 must be high-quality and implemented with fidelity, to avoid students becoming what has been termed "instructional casualties" (Lyon, 2002; Snow, 2016) for whom more intensive supports are then required.

The most well-known tiered models of support are Response to Intervention (RTI) and Positive Behaviour Interventions and Supports (PBIS). Both have strong evidence of effectiveness when adopted at a system-level, underpinned by training of educators, and implemented with fidelity.



However, comprehensive MTSS frameworks that traverse all three domains (academic, social and behavioural) are now being developed by systems in the United States due to the recognition that student engagement, learning *and* behaviour are inextricably linked. Focusing on academics or behaviour without focusing on the quality of teaching, teacher-student relationships or teacher/student wellbeing is like stitching a wound without cleaning it first. Each of these elements need to be in the school-improvement frame, lest they be forgotten in the quest to raise achievement in literacy and numeracy or reduce suspensions and exclusions without addressing what may be sitting beneath those statistics. There is also recognition, due to advances in research over the last 20 years, that the elements described earlier in this literature review—*student voice and participation, school connectedness, positive teacher-student relationships, social-emotional learning, quality accessible teaching*—are protective factors that also predict students’ social, emotional and behavioural outcomes. In other words, a comprehensive focus through a unifying MTSS framework that includes elements designed to enhance student wellbeing, for example, can also enhance student achievement and behaviour. Recent research from the US, for example, has investigated the implementation of school-based trauma informed practices across Tier 1 and Tier 2 within a MTSS framework (von der Embse et al., 2019). Following teacher professional learning and coaching processes, this study indicated the potential benefits of whole-school adoption of trauma-informed practices, data-based decision-making coaching to build teacher capacity, resulting in a reduction in instances of disciplinary responses to student behaviour.

The multi-element MTSS models now emerging in the US therefore also consider and explicitly plan for the contribution of school culture and climate, teacher and peer relationships, student engagement, explicit teaching and inclusive practice, as well as the timely availability of interventions and supports. Also critical for Australian school systems is the recognition of cultural diversity and the importance of culturally appropriate pedagogy. Similar recommendations have been made by internationally leading researchers on exclusionary discipline who have studied the equity effects, not only of excluding children from school, but of alternative and diversionary strategies for which an emerging evidence-base suggests are effective. One such example is Gregory and Skiba’s (2017) *Framework for Increasing Equity in School Discipline*, which they developed to support school districts and systems to reduce exclusionary discipline, as well as address the disproportionate overrepresentation of students of colour, students with disabilities and students from disadvantaged backgrounds. Their framework, reproduced in Table 4.4 below, also traverses the academic, social-emotional and behavioural domains but, importantly for Australian educators, it pays explicit attention to culturally relevant and responsive teaching, which academics in Australia have identified is critical to the engagement and success of Aboriginal students (Morrison et al., 2019). This is a relatively neglected area of both RTI and PBI, making a comprehensive multi-dimensional MTSS more appropriate for diverse Australian communities.

Table 4.4. *The three domains and 10 elements of Gregory and Skiba’s Framework*

<b>Framework for Increasing Equity in School Discipline</b>			
<b>Prevention</b>	1.	Supportive Relationships	Authentic connections are formed between and among teachers and students.
	2.	Bias Aware Classrooms and Respectful Relationships	Inclusive and positive classroom environments are established in which students feel fairly treated.
	3.	Academic Rigor	The potential of all students is promoted through high expectations and high-level learning opportunities.
	4.	Culturally Relevant and Responsive Teaching	Instruction reflects and is respectful of the diversity of today’s classrooms and schools.
	5.	Opportunities for Learning and Correcting Behaviour	Behaviour is approached from a non-punitive mindset, and instruction proactively strengthens student social skills, while providing structured opportunities for behavioural correction within the classroom as necessary.
<b>Intervention</b>	6.	Data-based Inquiry for Equity	Data are used regularly to identify “hot-spots” of disciplinary conflict or differential treatment of particular groups.
	7.	Problem-solving Approaches to Discipline	Solutions aim to uncover sources of behaviour or teacher-student conflict and address the identified needs.
	8.	Inclusion of Student and Family Voice on Conflict’s Causes and Solutions	Student and family voice are integrated into policies, procedures and practices concerning school discipline.
	9.	Re-integration of Students after Conflict or Absence	Students are supported in re-entering the community of learners after conflict or long-term absence has occurred.
<b>Intervention and Prevention</b>	10.	Multi-tiered System of Supports	Schools use a tiered framework to match increasing levels of intensity of support to students’ differentiated needs.

## 4.8 HOW EMPLOYING MTSS HELPS TO REDUCE THE USE OF EXCLUSIONARY DISCIPLINE

School engagement is a critical protective factor, particularly for students in priority equity groups (Quin, 2019). The application of MTSS improves the clarity and predictability of school environments, which is important for students who have encountered adverse childhood experiences (McIntosh et al., 2013). Central to the MTSS framework are high levels of instructional support, strong teacher-student relationships, and explicit teaching of skills to enable students to meet clear behavioural expectations. There is evidence that these elements have a statistically significant and large treatment effect on rates of suspension in schools (Gage et al., 2018; Quin, 2017). A whole school approach to providing strong academic instruction, supporting students' social and emotional development, and setting 3-5 positively framed yet explicit behavioural expectations is core to MTSS (Horner et al., 2018). Importantly, the expectations are set in collaboration with students and families to ensure that they are responsive to the range of cultural norms and backgrounds. Students are supported to be successful, regardless of the skills they bring from home, because what is expected is explicitly taught and reflects the values and expectations within their community (Banks & Obiakor, 2015). Classroom practice is defined by the presence of clear routines and consistency across teachers, ensuring that students know that the rules today are the same as they were yesterday and that they will be the same when they move between rooms. Definitions of and procedures for dealing with difficulties with learning and problem behaviour are also explicitly defined using a three tiered-response approach.

### 4.8.1 Tier 1

Analysing Tier 1 data to determine whether any groups of students are having difficulty in meeting the standard of academic achievement, social/emotional development or expected behaviour is used to identify and reduce the disproportionate use of exclusionary discipline (McIntosh et al., 2018). Before implementing interventions targeted at these students, schools implementing MTSS are encouraged to reflect on their curriculum offerings and behavioural expectations to consider whether these are culturally responsive and developmentally appropriate, or if they need to be amended (Cumming & Rodriguez, 2018; Levenson et al., 2016; Perry, 2020). For example, if children with language and/or attentional difficulties are disproportionately sent out of class for not following teacher directions, within an MTSS framework, teachers are called upon to improve the accessibility of their instruction to support these learners. The aim is to provide proactive support to enable students to be successful, rather than punish them when they are not. Other 'universal' or Tier 1 strategies to support students with language and attentional difficulties (Graham, 2018a), include:

- clear and consistent routines
- well-designed seating plans
- variations in verbal tone and pace with frequent pauses to allow information processing
- clear and simple verbal instructions delivered in logical sequence
- visual aids to enhance students' comprehension of verbally described concepts and/or complementary written instructions
- regular reiteration of learning objectives, instructions, and classroom expectations
- positive reinforcement of good behaviour and recognition of effort
- providing one-to-one clarification and feedback to students who experience learning and behavioural difficulties
- pairing with another student who is a friendly and academically supportive role model.



When used in conjunction with high-quality teaching, these types of practices benefit all students (de Bruin, 2020) and can help prevent the types of low-level disengaged and disruptive behaviours that so often escalate to create student-teacher conflict, leading to detention, take homes, suspension and exclusion (A. Sullivan et al., 2014b).

#### 4.8.2 Tier 2

At the second tier, targeted interventions are provided to groups of students for whom the universal strategies provided at Tier 1 have not been effective. Tier 2 interventions are selected based on high contextual fit for both the student and the school, their social validity (that is, satisfaction by teachers and students that the interventions can be applied and that they work), and their ability to be applied for students who are at recurring risk of behavioural infraction (Hoyle et al., 2011). Common Tier 2 interventions used in MTSS schools to reduce suspensions include increased academic supports or tutoring (Yeung et al., 2016), as well as support with goal setting (Bruhn et al., 2017), self-monitoring (Briere & Simonsen, 2011; Campbell & Anderson, 2011), and social skills development (McDaniel et al., 2015). Tier 2 may also include other core features such as providing increased adult supervision and structure, and explicit re-teaching of behavioural expectations with increased monitoring and feedback (Affigne, 2013). One highly successful intervention is Check-In/Check-Out (CI/CO), a mentoring program where students are provided increased attention from an adult at school (Toms & Stuart, 2014). A recent meta-analysis has found that CI/CO improved student outcomes by over one standard deviation (Drevon et al., 2019). The key to minimising progression to Tier 3 is accurately identifying students at Tier 1, correctly determining antecedents, selecting appropriate evidence-based interventions, and implementing them with fidelity at Tier 2.

#### 4.8.3 Tier 3

At the third tier, intensive interventions are provided to individual students for whom the universal supports at Tier 1 and the group interventions at Tier 2 have not been effective. However, it is critical that schools have implemented Tiers 1 and 2 with fidelity before moving to Tier 3. This is because Tier 3 interventions are more resource intensive, often involve withdrawal, and should be targeted at the least number of students (Cook et al., 2015). The three tiers of the framework are deeply interrelated and complement one another (Kennedy, 2018). Tier 3 may only be provided to an individual student who has not received Tier 2 or when an emergency response is needed to an atypical event. For example, a student who experiences the sudden loss of a family member may be provided intensive individualised counselling support. Critically, the quality and fidelity of practice at Tier 1 directly impacts the number and type of students filtering up to Tiers 2 and 3. *This applies whether the practice relates to social-emotional, academic instruction or classroom management.* For Tier 3 interventions to be effective in reducing suspensions, expulsions and exclusions, a functional behaviour assessment (FBA) is critical. Tier 3 typically also involves wrap-around supports, which may be academic, social, or behavioural. This can involve the creation of a multi-disciplinary team around the child that includes the student, their parents or carers, classroom teachers, learning support staff, psychologists/counsellors, advisory staff, other professionals (e.g., speech pathologists or occupational therapists), who all come together to develop a plan, monitor its implementation, and measure its success (Hunter et al., 2018).

## 4.9 PUTTING IT ALL TOGETHER

Australian currently schools use a range of practices to respond to student behaviour, many of which are reactive rather than preventative. In accordance with international conventions and Australian legislation, school systems and educators are obligated to take active steps towards the progressive realisation of the right of all students to an inclusive education, where school structures, environments and teaching practices are adjusted to ensure all students can participate and receive support to learn and succeed. When behaviours that have the potential to cause serious harm do arise—which evidence indicates is relatively rare—exclusionary discipline practices should always be considered as a last resort due to their cumulative negative effects. By minimising the use of exclusionary discipline and upholding the seven core functions of behaviour support, as stated within South Australia’s recently released Behaviour Support Policy (SA Department for Education, 2019), the significant negative impacts of suspension, exclusion and expulsion can be largely avoided. These seven core functions are to:

1. promote, model and support productive and positive behaviour
2. explicitly teach positive behaviour and expectations about behaviour
3. intervene by using the least exclusionary methods to prevent, reduce or redirect behaviours of concern
4. work with children, their families, professionals and other key adults to understand the environmental, social and family context of a child or young person’s behaviours of concern, and to use the capacity of these parties to support positive behaviour change
5. provide visible, fair and equitable behavioural responses that foster confidence and trust
6. repair and restore relationships that have been harmed by behaviours of concern
7. establish safety and wellbeing for people involved in behavioural incidents, and others

Multi-Tiered Systems of Support (MTSS) offers a system-wide whole-of-school framework to support students’ academic, social-emotional and behavioural development. The tiered provision of evidence-based instruction and intervention that is data-informed and founded on quality Tier 1 instruction across all three domains for all students has the potential to reduce exclusionary practices and promote proactive responses to student behaviour. However, research shows that even when effective approaches are adopted, there is a risk that these are not implemented consistently or with fidelity (Paramita et al., 2020). It is critical, therefore, that if a system adopts the use of tiered approaches to prevention and intervention, that there is a strong investment at the system level to first develop a framework that is appropriate for the context and to support fidelity of implementation. Key to the successful implementation of tiered support frameworks (Cord, 2017) is:

- the provision of training in specific elements (e.g., restorative practice, inclusive practice, designing and implementing reasonable adjustments, Trauma Informed Practice, PBiS) to improve the quality of teaching and to reduce reliance on previously ineffective exclusionary responses to student behaviour,
- a communications and professional learning strategy to promote deep knowledge and understanding of the designed framework itself.

How this might work in combination is for the South Australian government and Department for Education to decide. For inspiration, they might look to the Vermont Agency of Education or the

Kansas Public Schools District of Abilene, each of which has adapted the initial rollout of MTSS based on the *School-Wide Integrated Framework for Transformation (SWIFT)* model following the Obama Administration’s issuance of guiding principles aimed at reducing the use of exclusionary discipline in 2014. However South Australia chooses to go forward, what is important is that the framework is contextualised, that it unifies elements that are important for children’s academic, social, and behavioural development, and that it includes only those elements which are evidence-based. As a starting point and to provide some initial inspiration, we illustrate below how the elements that have been described in the literature fit together.

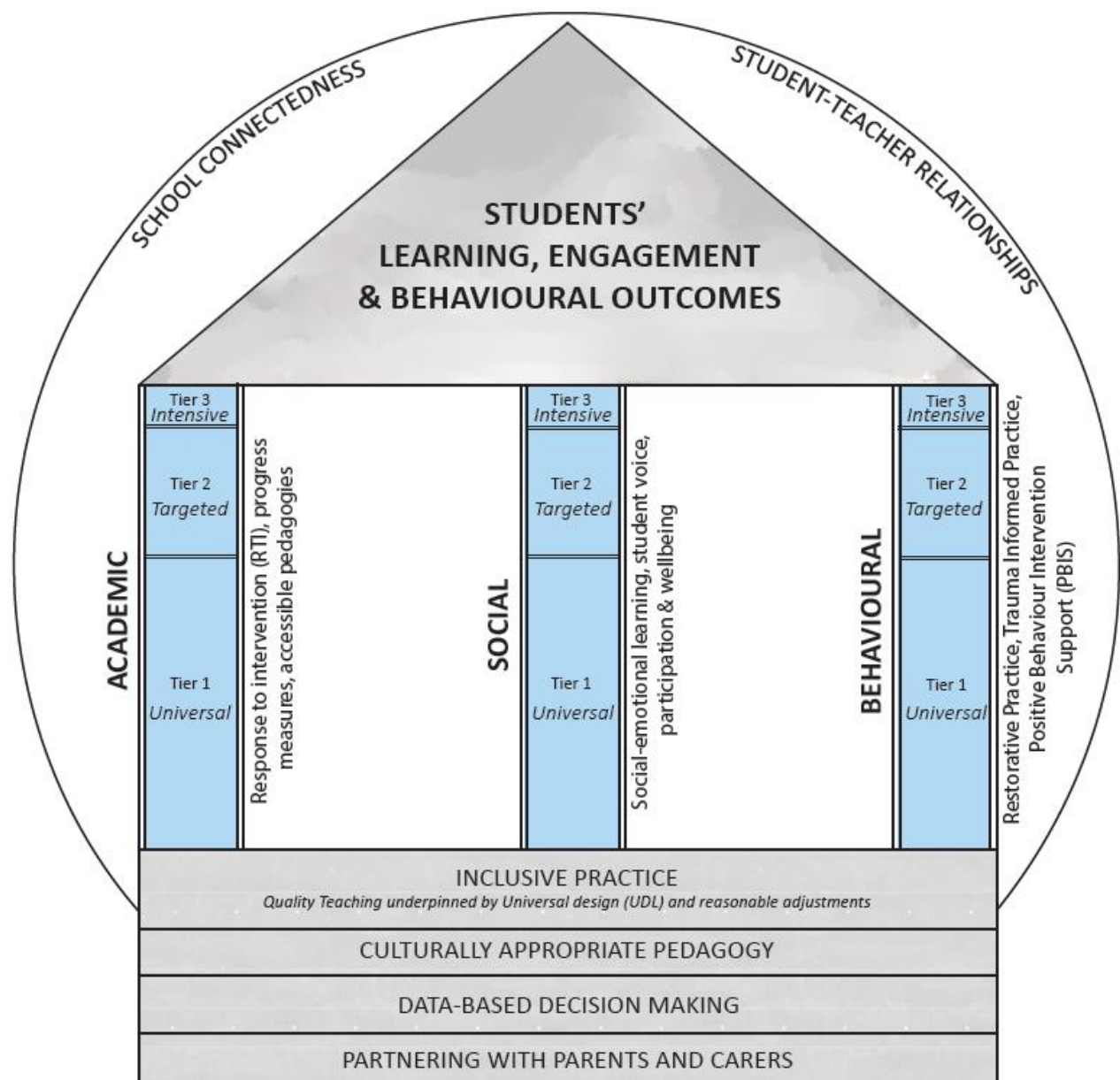



Image: Olivia Tomes, © C4IE 2020.



**Critical overall is system leadership.** Government adoption of school-based management and devolution of decision-making to schools has arguably also led to a devolution of responsibility for identifying and determining the most effective and appropriate methods of teaching and supporting students. There is a delicate balance to strike in respecting principals' autonomy and teachers' professionalism, while also recognising the limited time capacity of school staff to source and determine for themselves which practices to trust. The emergence of resources like the 'Teaching and Learning Toolkit' and the forthcoming Evidence Institute (Evidence for Learning, 2020b; 2020c) are welcome responses to this problem, however, governments and departments of education still have a central role to play in establishing a Multi-Tiered Systems of Support framework that is appropriate for their sector's context, identifying interventions for which there is strong and reliable evidence, outlining obligations, goals and standards, and ensuring that there is genuine implementation and consistency in practice—with necessary contextualisation for schools serving diverse communities. South Australia has clearly made inroads by implementing Trauma Informed Practice and the Phonics Screening Check. The challenge going forward is to unite the multiple and varied initiatives under one coherent and consistent multi-dimensional, multi-tiered framework to take South Australian government schools forward as a truly world-class education system.

## 5 STAKEHOLDER PERSPECTIVES

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This section of the report considers feedback from stakeholders through responses to the submissions survey, focus groups and interviews. The data generated through these methods provide insight to stakeholder perspectives regarding the use of take homes, suspensions, exclusions, and expulsions in South Australian government schools. Data from these sources are integrated and analysed in response to each of the Inquiry Terms of Reference, and themed according to respondent type beginning with education staff, turning to current and past students, parents and carers, and other stakeholders.

Note that while most Terms of Reference do not refer specifically to the use of take homes, these are commonly used as a form of exclusionary discipline and are therefore considered in relation to individual Terms of Reference where relevant. Relevant law, policies, and procedures (which are outlined in Chapter 3) are briefly summarised at the beginning of each section to provide context to the specific Terms of Reference and the feedback provided by stakeholders.

Respondents included:

- *Education Staff* - includes any employee of the Department for Education, including school staff such as Principals and school leaders, teachers, and staff from the central and regional offices of the Department, including policy and executive staff.
- *Current and past students*
- *Parents and carers*
- *Other stakeholders* – this includes any other stakeholder or member of the public not included in the above groups, including representatives from other government agencies and the not-for-profit sector.

This chapter begins with a description of the consultation and submissions process and participants, together with a summary of responses to initial questions of broad relevance to the Inquiry. Following sections are structured in line with the Terms of Reference and includes a summary of stakeholder feedback, along with recommendations for improvement as suggested by respondents. Note that these suggested improvements are distinct from the formal recommendations of this Inquiry which are outlined in the Executive Summary and in Chapter 11.

### 5.1 INQUIRY CONSULTATION RESPONDENTS

The Inquiry consulted broadly through a number of one-on-one and focus group meetings with 104 stakeholders. A total of 72 government and non-government stakeholders were consulted, as well as 32 current and past students. The Terms of Inquiry stipulate that identities not be revealed; accordingly, we have not provided a list of stakeholders consulted. Pseudonyms are used throughout the report and no quotes are attributed to any individual.

### 5.2 SUBMISSIONS SURVEY

The survey comprised a series of both closed and open-ended questions in relation to the use of suspensions, exclusions, and expulsions (SEE) in South Australian schools. Specifically, participants were asked to provide written responses regarding their views on compliance with

existing legislation and policy, the use of alternative learning options, behavioural and student support, processes related to complaints and appeals, support for schools and teachers, and systemic arrangements and processes. Their submissions in response to each question on the YourSAy survey have been analysed thematically in relation to the Terms of Reference and findings are presented below.

### 5.2.1 Education Staff

The Inquiry submissions survey received 56 responses by education staff, including principals, teachers, coaches, school support officers (SSOs), and other school personnel.

Table 5.1. *Submissions from Education staff*

Type of personnel	Number of submissions
Current school principals	8
Current assistant principals	3
Current teachers	28
Staff identifying as both teacher and parent	1
Behaviour support coaches	4
Wellbeing leaders	2
School Support Officers	1
Non-school based education staff	1
Therapists/allied health practitioners	2
Retired or no longer practicing educators	3
Higher education academics/researchers	3
<b>Total</b>	<b>56</b>

Note: Excluded from analysis were an additional 54 submissions from educators who did not progress beyond answering basic demographic questions.

### 5.2.2 Parents or carers

Responses were submitted by 248 people who identified as parents or carers of a young person. Of those initial respondents, 15 did not progress beyond the demographic questions and so were excluded from analyses, and 20 indicated that their young person was not in attendance at, or had not previously attended a government school, and as the Terms of Reference were specific to South Australian government schools, these responses were also excluded from analysis. The final sample included 213 respondents. Respondents were only included in analyses if they had responded to all items in the relevant section.

#### 5.2.2.1 *Demographics & experiences of the young people represented by parents/ carers*

Schooling type and demographic information about the young people about whom the 213 parents and carers were asked about are detailed in Table 5.2 and Table 5.3. Most of their young people attended government schools at the time of the survey (84.5%). Responses of those who indicated other arrangements (alternative settings, home-schooling, or no longer in attendance) suggested that they had attended a government school at some point.

Table 5.2. School type of the young person

Schooling type (N = 213)	Count	Percent
Government primary school	130	61.0
Government high school	50	23.5
Flexible Learning Option (FLO)	5	2.3
Government special school	3	1.4
Home schooling*	4	1.9
Not attending any education*	13	6.1
Other	8	3.8

Note. Responses of those within the flagged categories indicated that they had previously attended a government school, while 20 respondents in the Other category had been excluded due to responses indicating that they were not / had not attended a government school.

Of note, more than a quarter of the sample indicated that their young person had experienced complex trauma during their childhood. This and other demographic information provided by the parents and carers of the 213 young people is reported in Table 5.3. Interestingly, three of the parents/carers of the 17 young people from an Aboriginal (n=16) or refugee (n=1) background said that they did not believe their child’s school was culturally inclusive, however, the other 14 parents/carers said that their child’s school was culturally inclusive.

Table 5.3. Demographic information

(N = 213)	Count	Percent
Aboriginal or Torres Strait Islander	16	7.5
Refugee background	1	0.5
Live in care	18	8.5
Childhood complex trauma	57	26.8

Note. Some young people are represented in more than one category.

The majority of parents or carers (141 of 213 respondents, 66.2%) reported that their young person has a disability, with different disability types specified in 5.4. Sixty-two of these 141 parent/carers reported their young person having more than one disability and are therefore represented in more than one category in Table 5.4.

Table 5.4. *Type of disability(s) experienced by the young person*

<b>Disability type</b>	<b>Count</b>
ASD	105
ADHD/ADD	35
Anxiety	14
Intellectual Disability	14
Learning Disorder	7
ODD	7
Epilepsy	5
Global Developmental Delay	5
CAPD/APD	4
PTSD/Trauma	4
FASD	3
Down syndrome	3
Cerebral Palsy	3
Other	25

*Note.* Some young people are represented in more than one category.

The most common combination of disabilities reported by parents through an open response option was Autism Spectrum Disorder and Attention Deficit Hyperactivity Disorder (21 young people), while the most common unique diagnosis was Autism Spectrum Disorder (64 young people).

This distribution of responses provides an indication as to which parents and carers were most compelled to respond to the submissions survey. While the response may not be representative of all students with a disability in South Australian government schools, noting for example the absence of parents or carers of students with language disorder, there is nonetheless a high representation of parents and carers of students with the types of disability most overrepresented in suspension, exclusion and expulsion, again with the exception of students with language disorder (e.g., Speech Language Impairment). We pick this up again in Chapter 9, *Over-representation of 'At-Risk' Students*.



## 5.3 NOTIFICATION OF DECISIONS TO TAKE HOME, SUSPEND, EXCLUDE OR EXPEL

### Terms of Reference:

- Ensuring that relevant parties are notified a decision has been taken to [take home], suspend, exclude or expel a student.

As described at Section 3.6.5, the objects and principles of the *Education and Children's Services Act 2019* (SA) require schools to promote the involvement of students, parents, carers and other members of the community in decision-making including decisions about exclusionary discipline. The 2020 SEE Procedures note that a school must notify the student and their parent or carer of a take home, or a decision to suspend or exclude the student, to arrange for the student to be collected from school as soon as possible (SA Department for Education, 2020 SEE Procedures). A written notice should also be provided following a suspension, exclusion or expulsion (SA Department for Education, 2020 SEE Procedures). However, notice does not necessarily need to be provided to the parents of students living independently or who are aged eighteen years and over.

The Inquiry also received feedback from respondents in relation to whether students were consulted or interviewed prior to a take home or a decision to suspend, exclude or expel the student. This feedback is summarised in this section. As described in Table 3.4, schools should take reasonable steps to find out from a student what happened leading up to the incident that has prompted a disciplinary response.

### 5.3.1 Education staff feedback

The small number of school leaders who participated in the Inquiry consultation process unanimously reported that the relevant procedures for suspension and exclusion are followed including ensuring all parties are notified appropriately in accordance with the Procedures for Suspension, Exclusion and Expulsion (SEE Procedures). This view was not shared by many other education staff.

Some respondents noted that there may be times where a school fails to follow the procedures strictly, but this is a result of human error and not an intentional breach of SEE Procedures. For example, where a school needs to use a variety of processes to contact parents, or where there is complex case management involving multiple team members, it might be possible that some people who should be notified are at times overlooked.

While most teacher respondents to the survey (82.1%) indicated that the relevant parties were informed, they generally included caveats regarding implementation. For example, teacher respondents identified that parents may be notified without full details of the incident, notifications may not occur in a timely manner, or notifications may not be provided at all “*when dealing with belligerent parents*”.

Of the remaining teachers (17.9%), four felt strongly that relevant parties were not always informed of decisions appropriately. There was concern by one respondent who works with schools across the State that students were being suspended without parents being informed in a timely manner. One behaviour support coach offered the example of a student who

returned to school the day following suspension, as the carer had not received the voicemail message advising that the student had been suspended.

One teacher also noted that the reasons given to parents for a suspension or exclusion are not always clear,

“A suspension due to "inappropriate language towards a teacher" is often assumed to mean foul, aggressive language, but when it really means that a teacher is being sexually harassed by a student, that needs to be properly communicated to the parent or guardian and dealt with in the appropriate manner.” (*Teacher, survey response*)

Respondents also raised that some teachers were also not notified of decisions to suspend (or not suspend) students or were not provided reasons for the decision. Other teacher respondents noted the lack of time available for teachers to prepare work for the student while on suspension. In response to whether parents are always notified, one teacher remarked,

“Yes, but when it doesn't follow the OnePlan, where is the justice in that.” (*Teacher, survey response*)

Teachers also expressed concern that the parents of students who may have been the victim of a suspended student's actions are often not notified of the incident or outcome. This was cited as problematic for any incident involving students who had been bullied, as notifying them of the outcome would potentially alleviate concerns parents hold regarding attending school after an event. It was noted that informing parents of the student who was targeted needs to be balanced with the privacy of the student suspended, and clearer guidance on expectations for informing the parents of targeted students could be beneficial.

Respondents who identified as behaviour coaches commented that notification practices across schools varied greatly, which may be a result of various factors. In addition to the earlier example of notification via voicemail, another respondent indicated that schools use phone, email, letter, and text to deliver notifications to parents. One respondent noted,

“The notification aspect is becoming more complex particularly in country areas where registered mail may not be as frequent as in the past. This is a complication for the process in a formal procedural way”. (*Behaviour coach, survey response*)

Some teachers expressed the view that some parents appear to avoid school contact if they suspect their child is about to be suspended, excluded or expelled, however, a wellbeing leader noted that difficulty in contacting a student's parents may be a result of their social circumstances rather than an intentional avoidance of the school's attempts to communicate information,

“Working in a Category 1 school often means parents are not contactable because their phones running out of credit regularly or their numbers change, and they do not inform us.” (*Teacher, survey response*)

Another acknowledged that decisions about suspension or exclusion are not always communicated to parents in a way that promotes consultation and positive school-parent relationships:

“Decisions to exclude should be made in a formal pending exclusion meeting. The issue with this is if the parent feels like a decision has been made prior to the meeting. This impedes the collaboration required between parent and school.” (*Teacher, survey response*)

Acknowledging these issues, some suggested it would be best if these decisions were communicated through the student's support team (where in place) to ensure it is communicated in a manner that is appropriate for the individual family's particular circumstances, and to ensure the decision and reasons are clearly explained.

### 5.3.2 Current and past students

In response to the survey, all present ( $n = 5$ ) and past ( $n = 8$ ) students indicated that they had been made aware of their suspension or exclusion, either when a parent was called to collect them from school, at a parent meeting, or via letter.

Students who were consulted in focus groups spoke of a lack of fairness in the decision-making process, indicating that they felt they had been blamed without any chance to tell their side of the story.

"There is always two sides to the story... say if I beat the other person in a fight, and they're looking on the person who's got hurt, they aren't even gonna get in trouble. But it could be different if they knew the other side. Or even if they at least listened. Even if the other person started it, and they've done most of the hits, if I end it then it's all on me, not on the other person. That's what schools are bad for." (*Max, grade 11, male*)

"They don't talk to you first, they just suspend you straight up ... it's not fair ... and then you come back to school and you don't really trust them, the teachers, because it's all not fair". (*Brent, grade 10, male*)

"If, like, the school gets one side of the story, and then they don't get the other, then it just makes us feel rejected, and they make you feel bad. Normally they already have their mind set before you can tell your side of the story. They don't listen to your side of the story, they just suspend you". (*Amber, grade 11, female, Aboriginal*)

"I was being bullied ... My Aunty said just keep reporting because it's going to build up, build up, and then it will come to an end with them and they'll get suspended. But nothing really happened. And those teachers were like just standing right there when she said something... when they seen it was getting serious they didn't even do anything... And then when we started ripping into each other ... that's when we got ripped apart by her friend who came from behind and hit me, and she didn't even get suspended... and I got excluded." (*Kelly, grade 11, female*)

One student respondent to the submissions survey also expressed their frustration with the decision-making process:

"Frustrated, didn't feel like I was getting heard by the teachers. It takes two for the situation, but I feel I was always getting the blame. Sending me home not the answer, I get further and further behind in [my] learning and so the cycle is the same." (*Jemimah, female, survey response*)

Another student respondent expressed that they had felt frustrated by past decisions to suspend or exclude because there had been no investigation of the incident that occurred.

### 5.3.3 Parents and carers

In the submissions survey, parents and carers ( $N = 139$ ) were asked whether their child had been interviewed about the incident before a decision to suspend had been made (Figure 5.1), and whether they themselves had been notified of the decision to suspend or exclude (Figure 6.2).

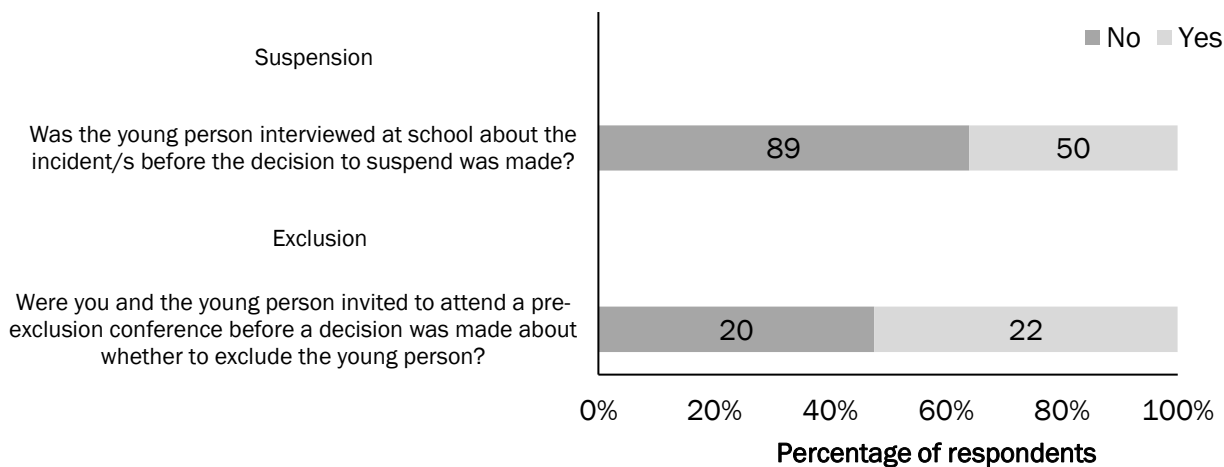


Figure 5.1. Responses on questions related to pre-exclusion conferences

The majority of parent/carer respondents (64.0%) said that their young person had not been interviewed about the incident prior to a decision being made to suspend. Nearly half (47.6%) the respondents had not been invited to attend a pre-exclusion conference (Figure 5.1). In this, the responses of parents and carers resonate with the lack of consultation and procedural fairness described by students (see Section 5.3.2).

The majority of parents/carers did, however, indicate they had received a notification of the decision to suspend (92.1%) or exclude (88.1%) (Figure 5.2).

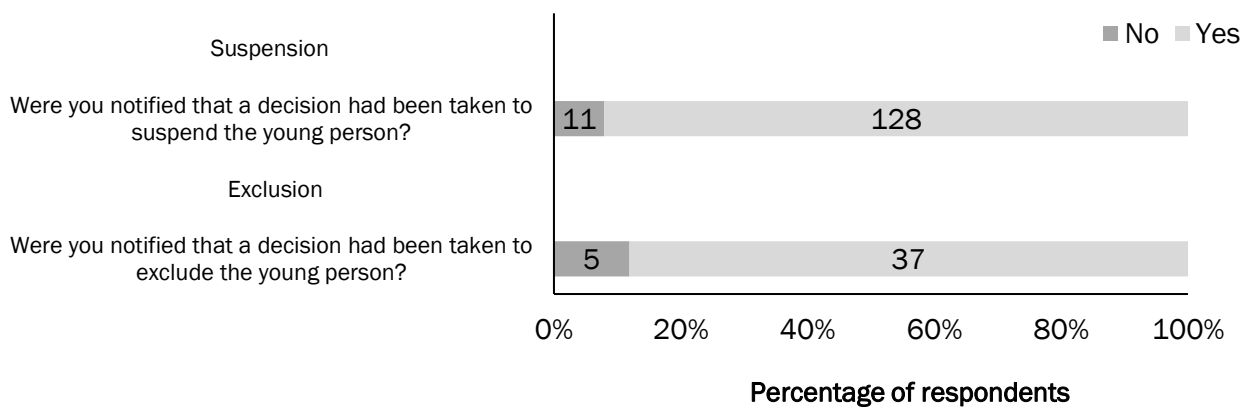


Figure 5.2. Notification of the decision to suspend or exclude

These data suggest that notification processes are typically followed in line with the SEE Procedures, but that this may not occur in all cases. Parent and carer responses also highlight potential issues around the perception of fairness in decision-making about suspension or exclusion due to a lack of consultation with the student (for example, to consider their view in relation to the incident prior to the decision being made).

### 5.3.4 Other stakeholders

Responses were also received from two ‘Interested members of the public’ (excluding 21 who commenced the survey but did not respond to any of the questions), and 7 ‘Other’ respondents (excluding 23 who commenced the survey but did not respond to any of the questions, and 20

who were reclassified as Education staff). Similar to some student respondents, feedback was provided that the decision-making process for suspensions and exclusions was not always fair to the students involved or consistent with principles of procedural fairness. One respondent also noted this issue had recently been considered in a complaint to the Ombudsman SA. This complaint is considered in the Ombudsman SA 2018-19 Annual Report, which notes:

**Complaint:** The complainant's child was suspended from high school when, on a school camp, another student was caught with cannabis. There was no evidence that the complainant's child knew about the other student using, or intending to use, cannabis.

**Outcome:** After being contacted by my Office, the department reviewed the decision to suspend the complainant's child and six other students... The department also found that there was no procedural fairness in the decision-making process as the students were not asked to provide their versions of events and some of the students were not interviewed prior to the decision to suspend being made. (*Ombudsman SA, Annual Report 2018-19, 2019*).

While student voice and participation in the decision-making process was viewed as important, one respondent also noted that formal interviews or conferences may not always be the best way to support the student to feel included in decision-making:

"I think broader issues need to be discussed e.g. issues outside of school impacting learning, peer relationships, etc. Students have a voice in the meeting, but again I feel it is not the best environment for them to express themselves and often chose not to." (*Public service employee, survey response*)

Respondents' feedback suggests that there are improvements to be made in ensuring students are included in decision-making about suspensions and exclusions, and processes other than formal interviews may need to be considered to ensure all students feel supported to express their views and participate in decision-making.

Some respondents also commented that other supports are often not included in the decision-making process. From the perspective of Aboriginal families and communities, it was suggested that:


"...decision-making doesn't frequently engage parents and community before suspending or excluding students. They don't even attempt to find parents before making a decision. There are Aboriginal support staff but they are often not engaged in the decision-making, or don't want to put their career at risk." (*Trish, Non-education government officer*)

It was suggested by one respondent that community intelligence is not relied upon by schools, which is particularly important in regional and remote locations, and that schools need to open their gates to local communities in regional and remote locations.

### 5.3.5 Summary and stakeholder suggestions for improvement

While stakeholder feedback indicated that notification processes are generally followed in line with the SEE Procedures, the data indicates that there remains room for improvement in schools' compliance with these procedures particularly with respect to procedural fairness and consultation.

Many education staff acknowledged the difficulties faced in notifying and engaging some parents in consultation processes. Some expressed frustration about some parents' unwillingness to engage with the school in relation to these processes, and several comments



offered reasons why some schools may experience fractured relationships with families. Many comments positioned parents as belligerent, disengaged, challenging and contributors to the poor behaviour of some school students. Other respondents, however, acknowledged that the individual circumstances of the student's family, as well as the family's experiences in dealing with the school or frustration with previous decisions or processes, may be factors impacting a school's ability to engage these parents.

A common theme in stakeholder feedback related to a perception of lack of fairness in decision-making regarding suspensions and exclusions. Many respondents expressed a view that the decision-making process is often unilateral and could be improved by more effectively engaging with the student and their parent or carer, as well as providing better supports at school to ensure all views are considered before a decision is made.

Key suggestions for improvement from respondents included:

- Ensuring parents are always notified of the decision including clear reasons for the decision to suspend or exclude a student.
- Improve processes to ensure students are included in decision-making about suspensions and exclusions and consider processes other than formal interviews to ensure all students feel supported to express their views and participate in decision-making.
- Clearer guidance around school's obligations to communicate incidents and decisions regarding suspension or exclusion of a student to the victim of the student's behaviour and the parents of the victim.
- Clearer processes should be embedded in school practices to ensure all relevant teaching staff and support staff are notified of a decision to suspend or exclude a student and the reasons for this decision.

## 5.4 CONFERENCES AND RE-ENTRY MEETINGS

### Terms of Reference:

- *Ensuring a conference is conducted with the affected student and other required participants.*

As noted in Section 3.6.6, the SEE Procedures require schools to conduct conferences with a student and their parent or carer. This includes:

- For take-homes, a meeting to review the student's behaviour development plan prior to their return to school ('re-entry meeting')
- For suspensions, a conference during the suspension period to discuss the causes of the suspension, and to develop a student behaviour development plan and re-entry plan prior to their return to school ('suspension conference').
- For exclusions or expulsions, a pre-exclusion or pre-expulsion conference to determine whether the student will be excluded or expelled, to discuss other matters such as the student behaviour development plan and alternative education during an exclusion or expulsion, and to develop a re-entry plan ('pre-exclusion conference' or 'pre-expulsion conference').

The SEE Procedures also indicate the school should consult with relevant parties at the end of an exclusion to plan for the student's re-entry.

This section considers stakeholder feedback in relation to both re-entry meetings and pre-exclusion/expulsion conferences. Not all survey respondents clearly identified the type of conference their feedback related to. Observations and quotes outlined below are referred to in the context of either re-entry meetings or pre-exclusion/expulsion conferences where this was identified in survey responses.

### 5.4.1 Education staff

All school leaders stated that they held re-entry meetings, suspension conferences and pre-exclusion/expulsion conferences consistent with the SEE Procedures. However, some teachers indicated these processes do not always occur due to time or staffing constraints, or do not include the parent when they cannot be contacted.

#### 5.4.1.1 Pre-exclusion/expulsion conferences

Some principals expressed concern that parents avoid pre-exclusion/expulsion conferences, with some needing to resort to phone call conferences where parents were unwilling or unable to attend. Several principals felt, despite the associated workload, that these conference processes were effective, particularly if they followed a consistent, restorative approach, which emphasised the school's values and helped the student set clear, achievable goals.

Some respondents suggested the utility of a conference depends on the parent's willingness to meaningfully participate in the process with one principal suggesting:

*"Conferences are always held but are not always helpful. They [parents] need to be more supportive and assist students to make better choices in any given situation." (Principal, survey response)*

One respondent made the following observation:

“There are many challenging parents out there who just want to blame school rather than look at their parenting style. The school can't do everything.” (*Behaviour support coach, survey response*)

In contrast to the above, some respondents noted the significant power imbalance that may be experienced by students and their parents in re-entry meetings, suspension conferences and pre-exclusion/expulsion conferences. For example, it was noted by a former teacher now employed in higher education that re-entry meetings and conferencing processes are sometimes unhelpful, in that they tend to involve:

“...a frightened kid with their equally confused Mum, surrounded by a pile of suits and their legal advisors.” (*Former teacher, survey response*)

This respondent also expressed grave concern regarding whether pre-exclusion/expulsion conferences are conducted in a manner that is consistent with the intent of the SEE Procedures, suggesting that decisions to exclude a student are usually made unilaterally before consultation occurs:

“...the decision is made in the principal's office, and then a pretend consultation is conducted.” (*Former teacher, survey response*)

Another respondent suggested the benefit of the conferencing process may depend on the type of student involved, or the circumstances of their family. Consideration may need to be given to adapting the process to ensure it is flexible to suit the circumstances of the student and their family, and to ensure its long-term utility and impact is maximised.

For example, one assistant principal who responded to the submissions survey noted:

“For most students, the conferences are effective. For students with poor parenting, trauma, learning issues etc the conferences are useful as discussion but don't always transfer to long term change.” (*Assistant principal, survey response*)

Some behaviour support coaches also noted that further support may be beneficial in ensuring that these conferencing processes are effective. Regarding pre-exclusion/expulsion meetings, one respondent explained:

“Principals need help with these meetings. It is a stressful time for all parties however the use of a pending exclusion meeting to create real change is large. Exclusions are an opportunity for change rather than a punitive measure. Good exclusion meetings create long lasting change. External help for principals needs to be given.” (*Behaviour support coach, survey response*)

#### **5.4.1.2 Re-entry Processes**

Re-entry processes were viewed by school leaders as a critical step for reflection and restitution. However, some respondents also expressed concerns about how effective the current process is for supporting students to reintegrate after a suspension or exclusion. One respondent noted:

“...the process of suspension and return to school is not always effective... essentially we're asking students to go away for 5 days, then when they return they are asked to show us how they have learnt to self-regulate and why we should let them back to school. The system doesn't have a clear, effective intervention strategy or services to support students to reintegrate into school”. (*Amanda, DfE Policy/Executive Officer*)



One principal recommended schools could play a greater role in helping students overcome the embarrassment of returning after suspension. They further suggested peers have a role to play in welcoming the student back to school, stating,

“I think that re-entering the class can be daunting/embarrassing for some students in some cases. We could do more to educate the other students around how they can support/welcome back the student.” (*Principal, survey response*)

Responses from behaviour support coaches indicated that the quality of re-entry processes differed across schools. Some conferences, while time intensive, were considered extremely effective as they sought student input into determining goals.

There was a clear position held by several teachers that re-entry meetings that focussed on negatives or simply outlined future consequences were ineffective. One allied health professional expressed concern that re-entry meetings were often simply warnings offered by the principal to the returning student. Responses generally indicated that for re-entry meetings to be effective, students need to be taught strategies to prevent the repeat of the behaviour. For this to occur, the meetings needed to be conducted by staff with expertise and in-depth knowledge of how to repair behaviour, and time needed to be allocated to allow for explicit teaching to occur. Some teacher respondents indicated that they would find it beneficial to have greater professional support during student re-entry processes.

Further, some teachers, student support staff and allied health professionals expressed concern that they were not invited to these meetings or that their timetable often prevented their attendance at these meetings, and the re-entry plan, developed by others, was then left for them to implement. They further argued that the lack of resourcing necessary for effective implementation of the plan as well as the lack of any additional training for staff, resulted in an unsuccessful re-entry for some students. One teacher expressed concern that parents were not often given the full details of the conditions of re-entry.

Various teachers also indicated that students who are frequently suspended learn the script that they need to follow at re-entry meetings, but then return to class with no behavioural change. It was suggested that some students need access to wrap-around supports and interventions to help them repair their behaviours. Finally, one teacher indicated the importance of restorative justice, suggesting that, where another student had been injured or affected because of the behaviour of the student re-entering, that victim’s view needed to be heard and reflected on by the student who was suspended or excluded. It was suggested that restorative conference processes should be explored and utilised in appropriate circumstances.

#### 5.4.2 Current and past students

Students questioned the value of re-entry meetings and conferences. One student also expressed significant concern in particular about whether re-entry meetings are effective, stating:

“They’ve never helped me. They always just suspend me, do my re-entry and just turn around and say, “So what are you going to do this time?” And that’s about it. Like, they just turn around and say, “don’t do that” and then I’ll still just do it anyway”. (*Sarah, grade 10, female*).

Many students spoke of how they would have found it beneficial to have a meeting with the other student to apologise for what they had done, like a restorative justice conference, either

before a suspension or exclusion had taken place as a form of diversion, or after a suspension or exclusion to help with taking responsibility and repairing relationships.

“I really regretted what I’d done. But then after the time I got excluded I was thinking about my actions. When I came back from my exclusion, I wanted her to come into the room so I could say sorry, ‘cause I really did regret it...” (Kelly, grade 11, female).

“They need to set up a program where everyone has to sit in, everyone has to engage and have to talk about what happened, so that they get both sides of the story and it is fair... and that way you can kind of understand better where the other person was coming from too...” (Max, grade 11, male).

### 5.4.3 Parents and carers

Parents and carers were invited to respond to questions in the submissions survey regarding whether they had been invited to attend a re-entry meeting for their child following a suspension or exclusion (see Figure 5.3). The majority of parents and carers of suspended students (85.6%) reported that they and their child had been invited to attend a re-entry meeting at the conclusion of the suspension, however, 14.4% had not been invited to attend a re-entry meeting or conference. Similarly, most parents and carers of excluded students (64.3%) reported that they had been invited to a re-entry meeting at the end of the exclusion period, however one third (35.7%) said they had not been invited to attend a re-entry meeting or conference.

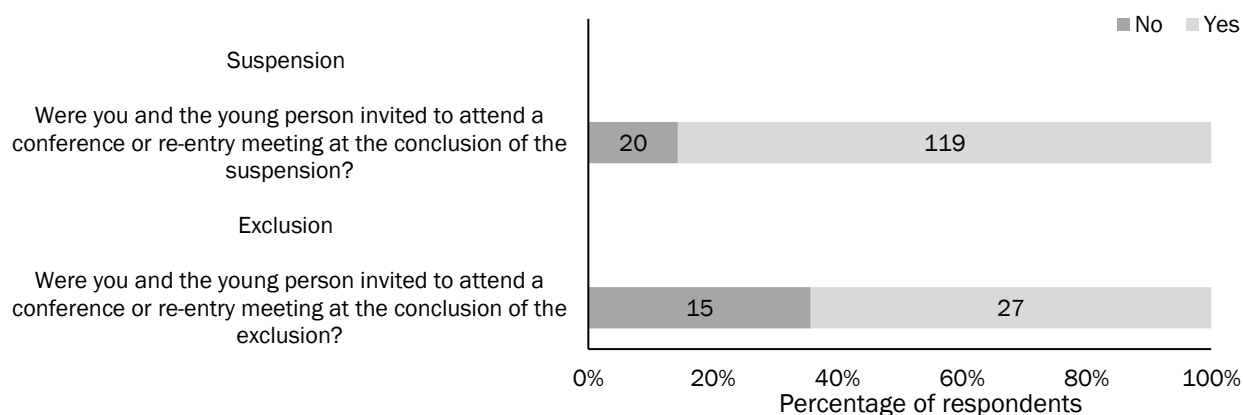



Figure 5.3. Conference / re-entry meetings following suspension and exclusion.

### 5.4.4 Summary and stakeholders’ suggestions for improvement

While stakeholder feedback indicated that notification processes are generally followed in line with the SEE Procedures, the data indicates that there remains room for improvement in schools’ compliance with re-entry meeting, suspension conference and pre-exclusion/expulsion conferencing procedures.

Education staff generally considered re-entry meetings and pre-exclusion/expulsion conferencing procedures to be necessary and, when done well, can be of benefit to students. However, it was noted that these procedures can be improved and require better supports to ensure they are meaningful for all students, particularly students with complex learning profiles or a history of trauma. Several respondents, including students themselves, suggested there would be potential benefit in schools adopting restorative conferencing processes. Some respondents also recognised that parent or carer availability for conferences may be impacted



by, for example, work commitments, and to support parent and carer engagement in these processes further consideration should be given to increasing school ICT capability to enable conferencing with parents to occur through the use of technology rather than face-to-face where appropriate.

*Key suggestions for improvement from respondents included:*

- Schools should consider more effective and fairer collaboration with students, their parents/carers, and supports from the student's care team before decisions are made to suspend, exclude, or expel a student.
- Schools should be supported to improve ICT capability to enable conferencing with parents via the use of technology in appropriate circumstances.
- Consideration should be given to how the Department for Education can better support schools to conduct conferencing processes in a meaningful way, to support the achievement of behavioural goals and improve supports to the student to engage in an inclusive environment at school.
- Consideration should be given to the use of restorative conferencing processes in appropriate circumstances.

## 5.5 PROVISION OF OTHER EDUCATIONAL AND DEVELOPMENTAL OPPORTUNITIES TO SUPPORT GOALS

### Terms of Reference:

- *Ensuring the suspended or excluded student is provided with other educational and/or developmental opportunities to support the behavioural and learning goals.*

The *Education and Children's Services Act 2019* (SA) provides in section 7 that every child has a right to education. However, the *Education and Children's Services Act 2019* (SA) and Regulations, and the 2020 SEE Procedures do not provide a clear expectation that schools will continue to provide access to educational and/or developmental opportunities during a take home or suspension. As described in Section 3.6.7, the 2020 SEE Procedures explicitly state that schools are not required to provide access to educational opportunities during a suspension.

Table 3.7 (at Section 3.6.7) summarises schools' obligations to provide continued access to educational and developmental opportunities during an exclusionary period, including obligations under the 2019 SEE Procedures and the new 2020 SEE procedures. In relation to suspensions, the SEE Procedures note that learning and behavioural goals should be discussed in the context of a student development plan at a suspension conference prior to the student's return to school, but does not set an explicit expectation that the school will provide access to learning and behaviour support during the period of a suspension.

During an exclusion, for students under the age of compulsion, the school is responsible for providing access to education during the exclusion (SA Department for Education, 2020 *SEE Procedures*, p. 16). Similar requirements apply to a school following the expulsion of a student.

A tooltip for good practice was also provided in the 2019 SEE Procedures as follows:

"During the period of exclusion, nominate a member of staff e.g. class teacher, counsellor to maintain contact with the student through e.g. weekly phone call, text or email. If the student is learning on another site then visiting is also possible. This supports the maintenance of connection with the school and is one step toward restoration of relationships on the student's return." (SA Department for Education, 2019 *SEE Procedures*, p. 23)

### 5.5.1 This tooltip is not provided in the 2020 SEE Procedures. Education staff feedback

Feedback from most education staff indicated that suspensions, exclusions, or expulsions are necessary to support the achievement of behavioural goals for students. Survey respondents typically responded that supports are provided where possible.

One assistant principal provided detailed information about what they make available, including,

"...daily lesson checks for positive reinforcement of good behaviour, communicate with teachers regarding learning issues, do more testing to identify underlying learning issues, for excluded students, we may provide twice-a-week meetings if no alternative placement found. Our local Learning Centre is often a good solution to help with behaviour goals, but incredibly hard to get into." (*Assistant principal, survey response*)

Another member of a school's leadership team noted that their school provides work for the student while suspended or excluded, and on return, including social skill development, academic supports, restorative meetings, mentoring by a preferred staff member, as well as a "Team around the child" wraparound approach.

One school principal provided examples of strategies used to support students during exclusion in a way they considered would be dealt with differently in other schools:

"...she meets a teacher from school once a week at a library and they go through the work with her, on the learning she needs to do. This is a 4-weeker. Most schools would go 10 weeks ... on this severity. This is very expensive though, 'cause I've gotta employ a teacher to go out and sit in the library". (*Albert, School Principal*)

This respondent also spoke of the importance of maintaining a connection between the school and the student during exclusions,

"I can also give permission for kids to come to school under exclusion. So, this girl we have given permission to come to school on Tuesdays to go to the art therapy programme and re-engage... You don't sever connections 'cause once they're severed, they're severed." (*Albert, School Principal*)

Some respondents indicated that behavioural supports can only be of benefit insofar as they are effectively implemented outside school, with emphasis placed upon the responsibility of the parent or carer. For instance, one teacher expressed the view that the interventions and supports provided by the school were irrelevant, if the same supports and consequences were not in place outside of school. Others voiced a concern that work prepared for the student while suspended or excluded was not completed. There was a strong sense of blame and frustration by some teachers, one of whom argued that it was not the school's responsibility to provide the student with work, rather the:

"...parent/guardian's responsibility to ensure the student steps up and catches up on affected work or assignments". (*Teacher, survey response*)

Some respondents acknowledged that to ensure suspensions and exclusions support the achievement of behavioural and learning goals, consideration needs to be given to the student's family and home environment. If the prospects of a suspension or exclusion being successful is unlikely due to their family or home environment, schools should work collaboratively with both the family and school environment to develop a strategy that effectively implements appropriate supports for the student while suspended or excluded. It was noted though that this is not always considered before a student is suspended or excluded.

"When it comes to suspensions and exclusions, it's not black and white ... for example it can depend on family... parents might think that another school is a long way away, or the parents don't drive, so it's like we need to work with the parents' circumstances as well... and that's taken a long time for staff to understand".

"... sometimes we do it strategically working with the parents because we kind of feel like we're exhausting our options here, just going through the same motions every day, then we're expected to contact schools looking for an alternative placement for the child, but they're not obligated to take them, so then it might be to home, which is not ideal."

"...Sometimes you can do an exclusion to your own school ... sometimes we look at part-time programs, or sometimes the exclusion might be part-time". (*Georgia, School Principal*).

One respondent also suggested the circumstances of the student's family or parents/carers should be a significant factor in determining whether to suspend or exclude, and in some instances it might mean needing to address the situation differently without resorting to suspension or expulsion:

"...for some students, being excluded and being at home while excluded is not necessarily a good place for them to be ... you've gotta weigh that against the severity of the incident".  
(Albert, School Principal)

"I think there is an issue with our parents who are mentally ill, drug or alcohol affected being able to convey communication that is reasonable. Parents with these difficulties find it hard to navigate their own lives let alone their children's. I think in these situations the children should remain at the school for consequences." (Behaviour Support Coach)

Many respondents said that there is room for improvement in ensuring that suspensions and exclusions, when they are necessary, serve a meaningful purpose in supporting students to change their behaviour, in addressing underlying issues such as trauma, and ensuring continued access to education. Many respondents were critical of the way suspensions and exclusions (particularly exclusions) are used to remove risk in a school for a defined period, but are not necessarily effective at addressing the drivers of that risk and promoting the interests of the student, including continued access to education. As one respondent noted:

"...the 10 weeks is just taking away danger from the school, but what are we doing about education for this person and long-term risk and opportunities for success beyond school?" (Helen, DfE Policy/Executive Officer)

"...suspension can be helpful to give schools' time to reconsider what supports need to be implemented for the student ... but I often suspect other schools use it as punishment".  
(Kristy, School Leader)

"...suspension often results in no activities, engagement, education ... once this pattern starts, the young person's trajectory becomes quite poor... There is a predictable pattern of repeated suspensions, then exclusion or expulsion. This results in increased risk of death or injury by misadventure, engagement in criminal behaviour, engagement in risk taking behaviour, substance misuse". (Anna, DfE Policy/Executive Officer)

One respondent commented,

"Generally, the SEE process is used in accordance with Department Policies and the current laws. However, this can differ widely depending on the site, the principal and support services. There have been examples in which I have been involved where principals and the delegates have used the SEE process to excess and used it as an exclusionary tool as opposed to inclusion." (Behaviour support coach, survey response)

Another stated,

"Yes, the procedures are being followed, the laws and policies are being upheld. However, when a student is disengaged from learning there usually is an underlining complex situation and proceeding with the above in some circumstances is counterproductive. In some situation the students will be placed in FLO as they are too difficult in mainstream. These students will actively participate in breaking the rules to get to FLO." (Behaviour support coach, survey response)

Another behaviour coach expressed further concern about the use of suspensions stating,

“Suspensions are occurring without proactive measures being put in place as soon as any incidents occur; e.g. 5 day suspension for 1 incident and student with learning difficulties being told they need to take responsibility for their attitude with no action being taken to support student with learning and no evidence of teacher capacity being monitored.”  
(*Behaviour support coach, survey response*)

Other respondents also expressed concerns regarding the educational and developmental opportunities made available to students and how effective these were in supporting the student to achieve behavioural goals. Some respondents indicated that no interventions are offered in some instances. Behaviour support coaches, allied health professionals and staff supporting schools across the state were concerned that being sent home had a negative impact on both academic learning and wellbeing. One SSO explained:

“I do take issue with the number of students who are suspended and sent home. In my experience, students whose behaviour stems from the home are done a complete disservice: a) because they are returning to the environments that allow the behaviour in the first place and b) if being at home is fun, with electronics, food and no behavioural expectations, then continuing bad behaviours at school leads to being sent home - the student gets what they want! I think internal suspensions are appropriate. Schoolwork at a desk near the principal's with no play breaks. Even a room at the local area's education hub. Suspended students from local schools could gather there instead of going home.”  
(*Student support officer, survey response*)

Another respondent added:

“Suspensions need to become the turning point for all concerned. If the suspension is not treated as a key point for improving behaviour, the rot sets in. I have experienced many students taking part in behavioural learning programs. Those that were successful were the ones where the individual needs of the student were addressed, and coping strategies employed. One to one was by far the more successful model. The failed models were the ones where a student was simply sent home ... Other failures also occurred when students were sent to a behaviour centre that merely concentrated on a student completing normal schoolwork only.” (*Student support officer, survey response*)

Many respondents felt the process could be improved if the student was involved in setting the goals to work on while suspended or excluded, but it would be likely that the student would require explicit teaching in order to achieve these goals and, with limited resources, this was not likely to happen in many schools. For this reason, multiple respondents expressed a preference for in-school suspensions as they could allow for this explicit teaching to occur. A good summary of the views by the behaviour support coaches is captured in this one comment,

“Excluded students should always [be] set educational and developmental goals. They are in all of my cases. The effectiveness of this varies depending if all adult parties have the capacity to do their agreed parts. Often the most difficult cases that do not change are where mental health or trauma concerns are pervasive. The principal then weighs up rights of one vs. rights of many. This is a burden and not easy. Good exclusions change lives. Bad ones don't.” (*Behaviour support coach, survey response*)

Of concern, one principal also commented that students who are suspended or excluded should not be entitled to education opportunities as they had effectively deprived themselves of their right to education as a consequence of their misbehaviour, and therefore schools should not be required to provide suspended or excluded students access to education opportunities because their rights had been ‘suspended’ during the period of the suspension or exclusion.

### 5.5.2 Current and past students

In general, suspensions and exclusions were viewed as a negative school experience and most students reported that they do not think suspensions help to change behaviour.

"They give us a break from school, ... to reflect on what we've done. But, to be honest, to me suspensions don't work. They just make me even more angry not being at school to sort it out. Because you have to wait, like, a period of time before you actually get to sit down and talk to that person ... it kind of drags on ... and kind of makes you feel rejected by the school." (*Amber, grade 11, female, Aboriginal*)

"I wanted to be suspended because I wanted to be home, not at school. I wanted to be suspended because I hated school life. So, don't think suspension always works". (*Alex, grade 10, male*)

"...with some mates, suspension actually sounds okay to them. They love being at home. They go and do something to get suspended... so they don't work for everyone". (*Paul, grade 10, male*)

Most students who had been excluded spoke of a lack of support during the exclusion period and lack of access to any educational opportunities during the exclusion period.

"I was just at home every day, it was horrible. I was constantly contacting the school because I really wanted to come back... Instead I just stayed at home, on the internet." (*Amber, grade 11, female, Aboriginal*)

"...the ones that are excluded, just on dope, or drugs. If they don't come into school, it influences them to go hang out with their mates that do bad stuff, and then they catch onto their actions, and it's not good for them. I've lost, like, a lot of mates that way". (*Lexy, grade 10, female, Aboriginal*)

"I was excluded for 10 weeks for like not following instructions and swearing and stuff. They said they would help me to get in another school but didn't and [I] didn't go to school for 8 weeks. I ended up going only for the last 2 weeks and by that time it was like what's the point. It was really weird coming back after that because I had been out of school for a whole term". (*Dash, grade 12, male, Aboriginal*)

"I knew of someone who was excluded and wasn't helped to another school for 6 weeks, and they ended up only going for the last 3 weeks. Then when they came back to school, they were in trouble again in the first week. I thought, maybe if they were going to school all that time that might not have happened". (*Callan, grade 11, male, Aboriginal*)

Student respondents to the submissions survey also provided feedback about what they did during suspensions or exclusions. Both current and past students indicated they stayed at home, sometimes without parent supervision, spending their time completing schoolwork, playing sport or musical instruments, watching television, playing Xbox, or doing things with their family. One indicated that they spent time at the beach.

Several students criticised external suspensions and suggested internal suspensions might be more effective for many students:

"I got suspended heaps of times, in primary and high school, for like behaviour things, talking back, things like that. When I got suspended, I would just stay at home, no work to do or anything. They think it's benefiting you but it's not at all. Internal suspension would be better because then you are actually doing some work". (*Max, grade 11, male*)



“They should do internal suspension stuff instead, otherwise they’re just sent home, and they’re on the streets and not doing anything to change”. (*Jasmine, grade 9, female*)

Some students reported that suspensions and exclusions did work eventually, not because of interventions or supports provided during the suspension or exclusion, but simply because when they became older and more mature they started to appreciate the impact repeat suspensions and exclusions were having on their future prospects.

“...[suspensions and exclusions] do affect me. It’s like I lose a lot around school. And then I fall behind. I used to cry every time I’d get suspended. Most of those were my fault because I chose to do that action. But I didn’t really get that until I was older, like in grade 11... before I didn’t really care if I got suspended or excluded. But then I stepped up because I knew that school’s getting serious now”. (*Kelly, grade 11, female*)

One student respondent to the submissions survey indicated that they viewed suspension as a way of avoiding schoolwork. No respondents felt that suspension had helped change their behaviour. Two student respondents indicated that they felt being sent home was a blessing as it helped them to avoid schoolwork or avoid bullying. Two students also expressed concern about schools sending students home to environments where there are issues, narcissistic parents, or abuse.

### 5.5.3 Parents and carers

Parents and carers were invited to provide feedback in the online survey around their experiences of student access to educational opportunities following suspension or exclusion, or during attendance at a Flexible Learning Option (FLO) or other alternative education programs (Figure 5.4). Most respondents indicated that their child was not provided with other educational opportunities (e.g. homework) while they were on suspension (85.6%) or exclusion (69.0%).

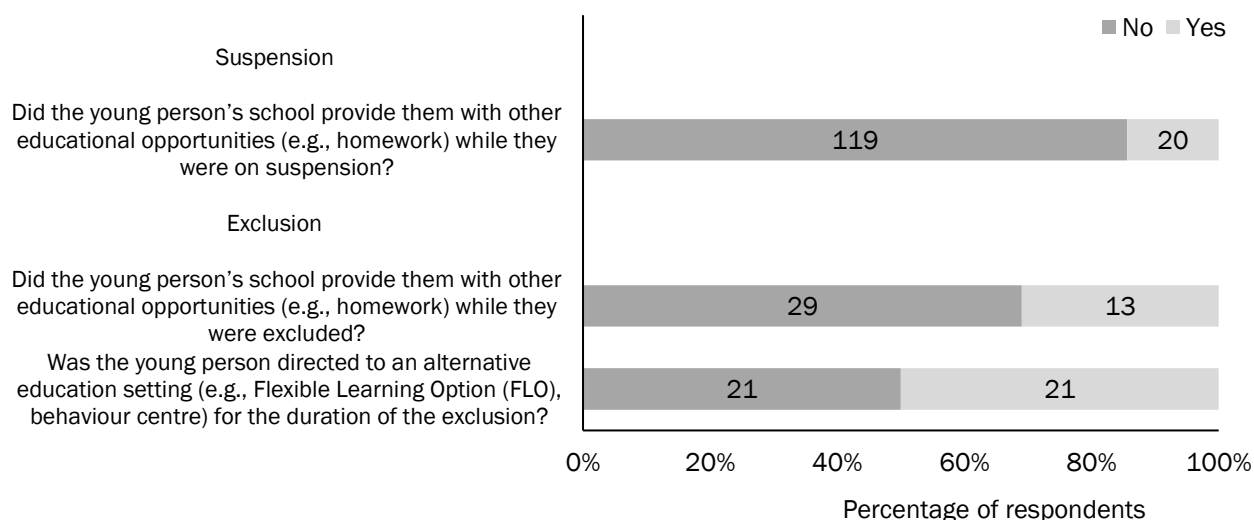


Figure 5.4. Other educational opportunities provided during suspension and exclusion period

Of those 21 students directed to a FLO, all but three were reported to have been in daily attendance. Two were reported as having attended sporadically (one stayed home with the parent/carer, another was still attending their old school 2-3 days a week), and one did not attend at all, being home-schooled instead. Eleven of the 21 parents or carers (52.4%) were

satisfied with the quality of education provided in the FLO, while 10 were not (including the three who did not attend daily).

As with suspensions (Table 5.5), most parent and carer respondents indicated that the excluded student was not provided with other educational opportunities (N = 29). Notably 14 of these respondents (48.3%) indicated that the student had been directed to a FLO, where alternative education and behavioural support should be provided to a student.

Table 5.5. Crossover between responses indicating referral to an alternative education setting and provision of educational opportunities

		Provided with other educational opportunities	
		No	Yes
Directed to an alternative education setting (e.g., Flexible Learning Option (FLO), behaviour centre)	No	15 (35.7%)	6 (14.3%)
	Yes	14 (33.3%)	7 (16.7%)
Total		29	13

In the 35 cases where the young person was **either** 1) *not* directed to an alternative education setting such as a FLO, **or** 2) *not* provided with other educational opportunities by the school, parent/carers were asked to select from a list of categories (drawn from Quin and Hemphill, 2014) to describe what the young person typically did when suspended or excluded. More than one activity could be selected. Responses are provided in Table 5.6.

Table 5.6. Activities of young people who were not provided alternative education opportunities or directed to alternative education settings

What did the young person do when suspended or excluded?	Count
Stay at home	25
Other (e.g., attending appointments, complete chores, attended behaviour centre)	15
Watch TV, play XBOX	11
School work	11
Things with family	10
Use internet/instant chat	7
Hang out in local area	3
Hang out in the city or mall	1
Illegal activities	1
Take drugs or alcohol	1
Paid or volunteer work	0

Note. Some young people are represented in more than 1 category

Parent and carer feedback to the submissions survey suggests that obligations to ensure access to educational opportunities following a suspension or exclusion are not consistently complied with across all South Australian government schools. The data also raise questions

as to whether FLOs or other alternative learning programs are effective at meeting these obligations and ensuring students are supported to achieve educational and behavioural goals following exclusion.

#### 5.5.4 Other stakeholders

Some respondents expressed concerns that suspensions often result in no or limited activities, or no education for the student, and that once happens once it can start a predictable pattern of repeat suspensions, followed by exclusions, and then return to part-time hours. It was suggested that once this starts, the young person's trajectory is typically poor, as students *"learn how to get suspended again, as it is more pleasant to be at home"* or to *"have more freedom to adventure than to be at an unsupportive, inaccessible school."* One respondent also noted that this trajectory increases risk of injury or death by misadventure, engagement in criminal behaviour, engagement in risk taking behaviour, and substance use.

Some other stakeholders expressed significant concern regarding the need for improved educational supports in FLOs, and to ensure students remain connected to schools and learning.

For example, one academic noted:

"If you keep kids connected to school, that's the major protective factor. The exclusion process needs to be part of a wider strategy to keep kids connect to school and learning. And FLO needs to have an educative purpose 'how do we get you back to school?' And for those kids that we can't get back to school, how do we set up a program that is educative, how do we make sure that you are learning. That might take more time, it might take different curriculum design. It might take having the NGOs and the social workers that wrap around. There isn't a simple solution to this, but if we don't teach you, if you're not learning, you're never going to get out of it. ...there will always be a need for alternatives, but the primary message needs to be that they need to be educative ... [FLOs] are focused on welfare, and there is an important link between welfare and learning, but the learning can't be sacrificed for welfare... FLO is respite for the school, it is respite for the kid, but it doesn't really do anything." (Jordan, Academic)

Another respondent commented on the impact of exclusions and engagement in alternative programs such as FLOs:

"Once excluded, the more difficult and the longer it takes to reintegrate the student back to school". (Martha, Other government officer).

This respondent also commented that past students that they had worked with had spoken quite critically of their experiences in FLO:

"Most of the kids we have worked with, their words were "and then we were put in FLO", so you know, it wasn't their choice. Some said, 'I was offered exclusion or FLO'. For most of them it wasn't a good experience. Some said they felt it was a dumping ground. One said I could have told you it wasn't going to work because what they do is they put the kids that are bullies in with a group of kids that were bullied and expect it to work." (Jordan, Academic)

Another respondent also expressed concerns about a 'peer contagion' effect in FLOs, in that because disengaged students are often segregated together in these alternative programs there is risk that students with disabilities will learn new behaviours including risk-taking behaviours and substance use through peer influence of other students.

Respondents also expressed significant concerns that FLOs contribute to the segregation and disengagement of many students and provide schools with an excuse to not have to deal with students that they identify as being difficult to manage. These stakeholder concerns are considered below.

#### 5.5.5 Summary and stakeholder suggestions for improvement

Respondents identified significant variability in access to alternative educational opportunities for students who have been suspended or excluded, dependent on local resourcing, access to skilled personnel, and student or family ability to access the supports provided. Respondents also observed that the utility of exclusionary discipline depends on various factors that are often beyond the school's control, including the student's home and family environment and the availability of alternative learning options. Education staff gave examples of how they have needed to work on creative solutions to ensure students were provided with educational opportunities during a suspension or exclusion, rather than simply being suspended or excluded to home.

It was also acknowledged that in some situations while a suspension or exclusion might be suitable for some students, it may not be appropriate for all students, especially if it would involve the student being suspended or excluded to a home environment with no or little supervision, or where the student has or is experiencing trauma or lack of stability in their home environment. This resonated with feedback from several students who commonly identified a lack of provision during suspension or exclusion and who clearly stated that suspensions and exclusions were not effective at changing student behaviours.

Parent and carer responses resonated with students, suggesting that there is a lack of educational provision following suspension or exclusion, and that obligations under relevant legislation and policy are not consistently complied with in all government schools.

Many respondents including current and past students identified the potential for increased use of internal suspensions to ensure explicit teaching of educational, developmental, and behavioural goals can occur, however noted limited resources that may prevent many schools from doing this effectively.

While some respondents indicated some schools do suspensions and exclusions well, a number of respondents indicated that suspensions and exclusions are often used primarily as a means to remove risk with little to no supports provided during the period of suspension or exclusion to help meet the goals of the disciplinary response. Respondents raised concerns that suspension and exclusion are still used as an exclusionary tool or as punishment and that suspension and exclusion are having a negative impact on the academic success and wellbeing of many students.

Some staff noted that students may use alternative educational opportunities to avoid aspects of school education that they find difficult. Feedback around alternative education options including FLO and behaviour centres was divided. While some FLOs were viewed as places where students could receive targeted intervention or as "circuit breakers" that could provide schools with respite, the transferability of the skills learned by the students in such settings was questioned. Respondents also correctly identified that "alternative" placements do nothing to build capacity in the home school.

While a number of respondents indicated these alternative education options offer value in that their staff may be better at understanding and supporting the student holistically, with a good understanding of triggers, drivers of behaviour, and impacts of impairments or trauma, it was questioned why this could not be provided in a more inclusive school environment. Resourcing spent on stronger universal and targeted interventions in schools (both academic and behavioural), how to differentiate and make adjustments, trauma-informed classroom practices, wrap-around supports including counselling and training to build a more skilled workforce in understanding behaviour function were cited as a preferred investment than offsite behaviour centres which have high waitlists and are not available in many geographic locations.

A small number of staff were of the belief that segregated special educational settings are needed to cater for students with disability, especially those on the autism spectrum or with behaviours of concern. Many respondents expressed concerns that alternative education environments are detrimental to students' learning and development. Some noted that alternative learning environments are vastly different to mainstream schooling environments, and academic standards are typically lower resulting in students often falling behind particularly in relation to literacy and numeracy, entrenching their separation from other students, and creating difficulties for students when returning to a mainstream school.

Those who considered alternative education sites as valuable for supporting the achievement of developmental, learning, and behavioural goals identified that this work is easily lost in the student's transition back to their 'home' school. Respondents called for better transition planning with more graduated and supported re-entry to school, to ensure consistency in supports for the student and continuity of learning and behavioural achievements.

Some respondents also raised concerns that there are not enough spaces available in existing FLO or learning centre programs. However, others also raised concerns that too many spaces may increase schools willingness to rely on these options inappropriately to remove students who are considered as having 'behavioural issues' without adequately exploring ways to better support and meet the needs of the student in an inclusive schooling environment.

*Other suggestions for improvement from respondents included:*

- Consider whether schools could be better supported to implement internal suspensions in appropriate circumstances to ensure schools are able to provide adequate supervision and explicit teaching of educational, developmental, and behavioural goals during an internal suspension.
- Explore options to reinvest spending on FLOs to support more inclusive school environments, such as targeted in-school programs (both academic and behavioural), improved workforce investment including upskilling staff to provide more holistic support with improved understanding behaviour function, trauma-informed classroom practices, and how to make adjustments/differentiate, wrap-around supports including counselling, and more support for explicit and scaffolded instruction to meet behavioural and learning goals.

Improve explicit education and training to education staff to build a collective understanding of human rights obligations to support access to inclusive education for all students, especially those with disability.

## 5.6 PROVIDING A FAIR AND EFFECTIVE APPEALS PROCESS

### Terms of Reference:

- *Providing a fair and effective appeals process*

As described at Section 3.12, the *Education and Children's Services Act 2019* (SA) provides that only decisions to exclude or expel a student may be appealed. Decisions to suspend a student may not be appealed. Further, while the *Education and Children's Services Act 2019* (SA) does not stipulate the grounds on which an appeal may be lodged, the SEE Procedures provide that an appeal can be lodged on the following grounds:

- error of fact (for example, the student did not behave as alleged)
- error of process (for example, the school did not conduct a Directions Conference)
- inappropriate length or conditions of exclusion or expulsion (for example, the alternative program does not provide enough learning supports) (SA Department for Education, *SEE Procedures*, 24).

While appeals and complaints processes are similar in that they provide an avenue for challenging or expressing dissatisfaction with a decision, appeals processes provide a more formalised process for reviewing more serious exclusionary decisions (i.e. exclusions and expulsions). Significantly less feedback was received from respondents in relation to appeals processes than in relation to complaints processes, which is considered at Section 5.7 below. Some of the themes in feedback regarding complaints processes may also be relevant to appeals processes.

### 5.6.1 Appeals Data

As noted in Chapter 10, we requested from the SA Department for Education data relating to the lodgement and outcomes of appeals processes. We were advised that appeals data is not collected centrally, and rather is captured at the regional level, and therefore the appeals data was not able to be collected and provided to the Inquiry for analysis. This presents limitations for analysis of this Term of Reference, and indicates that current mechanisms for the reporting and monitoring appeals data are not conducive to regular and robust analysis to inform policy decision-making to ensure appeals processes are fair and effective, or to identify opportunities for systems improvement.

#### 5.6.1.1 Education staff responses

Most principals and assistant principals considered the appeals process to be fair, and also noted that an official process is rarely used because schools are transparent and provide families with clear communication. One assistant principal stated,

“I've only had one parent appeal a decision. Most parents are accepting by that point that we have worked hard to try and keep them in class. It seems fair to me.” (*Assistant principal, survey response*)

However other education staff raised concerns about the types of matters that can be appealed by a student or their parent or carer, suggesting this may be another reason for the limited numbers of appeals initiated:

“The appeal process is an effective way to address issues, however parents/carers should be able to appeal the actual decision, not just the process.” (Teacher, survey response)

Two teachers questioned the fairness of the appeals processes for the teacher, with one wanting to know their right to appeal when a student who had used inappropriate language, threatened violence, and/or attacked a staff member was not suspended for their behaviour.

### 5.6.1.2 Parents and carers

In the submissions survey, parents and carers were asked whether they believed the decision to suspend or exclude was appropriate (see Figure 5.5).

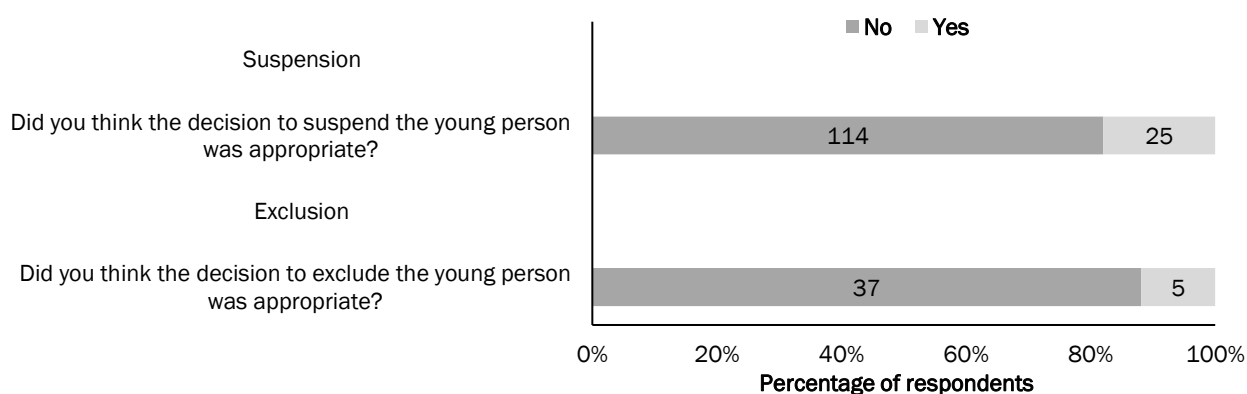


Figure 5.5. Parent and carer perceptions of the appropriateness of suspension/exclusion

### 5.6.2 Challenging Suspension Decisions

While it is noted that there is no right to appeal a decision to suspend a student, many parent and carer respondents still provided significant feedback in relation to attempts to challenge suspension decisions through other avenues. This is relevant to consideration of whether parents and carers have access to fair and effective appeals processes in relation to exclusionary decisions.

A total of 114 parent or carer respondents to the submissions survey felt that a decision to suspend had been made inappropriately. Of those, 69 (60.5%) challenged the decision to suspend, and of those 69, only 11 were successful (15.9%).

Parents or carers who had challenged the decision to suspend were asked why they did so. A variety of reasons were provided. The most common reason (n=15, 21.7%) was that they felt the suspension was unfair (usually because another young person was involved yet experienced no consequence). An additional 12 respondents (17.4%) felt generally concerned by the decision-making process or response from the school, and 10 parents or carers (14.5%) felt that a suspension was at best ineffective in changing the behaviour, or at worst, it reinforced the behaviour by rewarding it.

Nine parents/carers (13.0%) felt the suspension was not a justified (commensurate) response to the incident, and another seven (10.1%) were concerned primarily by the impact on the young person. Five respondents (7.2%) perceived that the suspension was inappropriate as the behaviour being punished was related to a disability. Four (5.8%) indicated that they simply felt

the suspension was wrong, and two (2.9%) felt it impeded the young person's education. Five respondents (7.2%) did not provide a response, or the reason was not clear from their answer.

The 11 parents or carers who were successful in their challenges reported mixed outcomes, such as downgrades to take homes or internal suspensions. One reported a tailored fulltime school program was implemented as the outcome of their challenge. One reported that suspensions were no longer given to their young person (even when warranted). Some reported that their young person moved schools or stayed home regardless, due to the distress caused by the suspension.

The 45 respondents who decided not to challenge the suspension had varied reasons. Many (n=14, 31.1%) felt that challenging the suspension was pointless. Comments from six respondents (13.3%) reflect that they did not have the energy / resources for challenging a suspension, or they simply felt it was too hard. Two respondents (4.4%) stated that the incidents were too numerous to constantly challenge each time. Six (13.3%) indicated that they did not know that they could or that they were not given the option. A further four (8.9%) commented that previous challenges had been unsuccessful or had not resulted in change. Twelve further respondents (26.7%) each gave unique reasons, which appeared to be context specific. For instance, one parent/carer said they decided not to challenge because "*the situation was explained to them*", and another said they always try to support the school, who they believe to be acting in the best interests of their young person. Another explained that they felt intimidated by the principal.

### 5.6.3 Appealing Exclusion Decisions

Of the 37 parent/carers who felt a decision to exclude was inappropriate, 20 (54.1%) decided not to appeal the decision, and 17 (45.9%) decided to appeal it. Open-ended responses of the 20 parent/carers who decided not to appeal revealed similar reasons for deciding not to as those who had not challenged suspensions. The most common reason was that the parent/carer thought it was pointless (n = 7, 35.0%). Some said they did not have the energy/resources for an appeal (n = 3, 15.0%), some said they were not given the option or did not know about it (n = 3, 15.0%), and two others (10.0%) expressed a sense of disempowerment. For example:

"After many years of dealing with these circumstances, I felt outnumbered, disempowered and lost capacity to stick up for my son and myself." (Parent/carer, survey response)

"I was fed up with not being heard." (Parent/carer, survey response)


For the 17 parents/carers who decided to appeal, only one felt that the appeals process was fair (5.9%), the other 16 did not (94.1%). Three were successful in their appeals: one stated that the school was investigated by an independent MP later, another was able to send their young person back to school, and another stated:

"...it was seen that the school could have gone about the situation in a different manner. That the decision was not made with my child's best interests in mind and they had not done adequate investigation of the situation." (Parent/carer, survey response)

### 5.6.4 Summary and stakeholder suggestions for improvement

Feedback in relation to appeals processes, while limited, indicated that there is opportunity for improving the effectiveness and fairness of appeals processes. While some education staff





indicated the process is fair and effective, some respondents also raised concerns about the types of matters that can be appealed by parents and carers, or by a student. In particular, it was noted that parents/carers or students should be able to appeal the actual decision if they consider the decisions was made in error, not just the process.

Feedback also indicated that parents and carers often experience barriers to pursuing the appeals process, and that greater support could be provided to parents and carers to understand and navigate the process. Many suggested that they felt challenging a suspension or exclusion was pointless, which may suggest a sense of lack of fairness or effectiveness in the appeals process from parents and carers' perspectives.

One suggestion for improvement in relation to the appeals process included that changes be made to existing policy that limits the nature of matters than may be appealed by a student or their parent/carer, to include the option to lodge an appeal if they consider a decision to suspend, exclude or expel in itself was not appropriate.

## 5.7 ADEQUACY OF CURRENT COMPLAINT MANAGEMENT ARRANGEMENTS

### Terms of Reference:

- The adequacy of current complaint management arrangements in respect of students who are formally or informally suspended, excluded or expelled including:
  - Whether complaints are being managed appropriately within schools and within the department
  - Whether the current arrangements with the South Australian Ombudsman are satisfactory
  - Whether the jurisdictions and powers of the Ombudsman should be expanded
  - Whether the Ombudsman should be able to make policy recommendations
  - Whether there should be a specific education ombudsman, and if so, what their role could be.

The SA Department for Education Complaints Management and Reporting Policy provides a three-stage process for raising complaints in relation to student discipline, types or quality of supports or services provided for a student, behaviour or decisions of staff, or in relation to policies, procedures or practice.

This three-stage process involves complaints made:

1. directly to the school (Level 1 complaints);
2. to the Customer Feedback Unit (Level 2 complaints);
3. to the South Australian Ombudsman (Level 3 complaints).

Complaints may also be made to other external bodies in some circumstances, for example to the Equal Opportunity Commission or the Australian Human Rights Commission.

### 5.7.1 Customer Feedback Unit (CFU) complaints data

Data relating to Level 1 education complaints was not available to inform this Inquiry. Data in relation to Level 2 complaints was provided dating back to 2018. The Level 2 complaints data is considered below.

The CFU manages Level 2 complaints and general enquiries. Complaints made to the CFU in 2018-2019 were classified under 50 subcategories (with small discrepancies across years). Incidents in which multiple topics were applicable were represented under more than one subcategory. These subcategories are represented by 14 superordinate categories in Figure 5.6. The highest number of incidents were related to staff, in both 2018 and 2019. Subordinate categories included under this topic were Staff Performance, Staff Misconduct, Communication, Privacy Breaches, Unethical Behaviour/Conflict, and Unfair Treatment. The second highest number of complaints were for Bullying or Harassment (comprising cyber, physical, staff, student, and verbal).

The next highest number of complaints were school-related, including Attendance, Class Placement, Zoning, Curriculum, and Enrolment. This was followed by Behaviour Management and Exclusion / Suspension related complaints. Next highest in both years were complaints related to Safety, which included issues under the topics of accidents, safety, and duty of care. External influences/parties-related complaints were made up of issues related to Parent

Restriction, Family Law Dispute, and Behaviour Third Party. Policy-complaints encompassed School Policy (Uniform-related and General), Curriculum, and Government/Departmental.

Following this were complaints related to Special Education, which included funding and support-related complaints. The category of Access related to both school facilities and transport. Alternative and Private Education comprised a small number of complaints and were included in the same category. Few complaints were issued in relation to Aboriginal Education, which was represented as a unique category. Finally, the Other category included complaints made regarding Prohibition, Other, and Unknown.

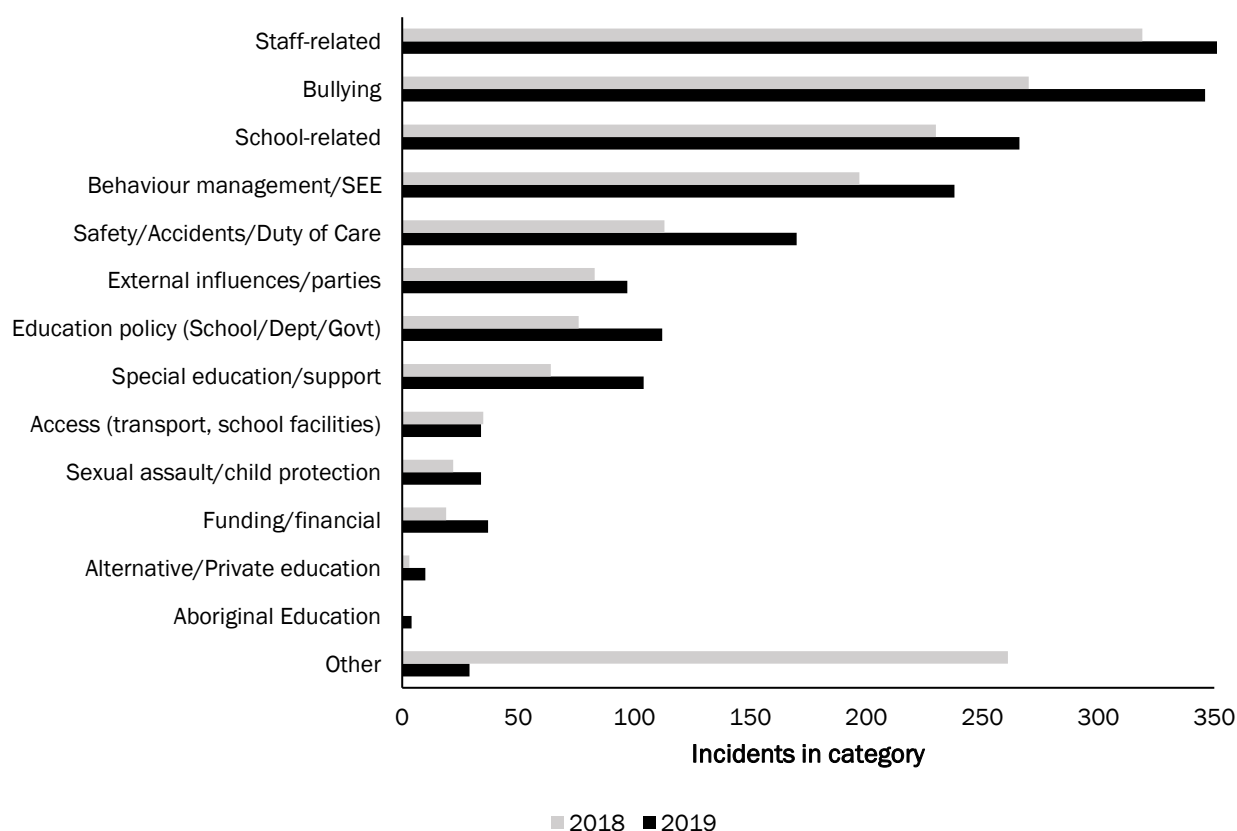


Figure 5.6. Combined General Enquiries, Level 1, and Level 2 incidents according to reason (2018-2019)

Since 2019, the CFU has undertaken a ‘root cause analysis’ of Level 2 complaints received, to determine the underlying reason for the complaint. These data are presented in Figure 5.7. In 2019, the highest proportion of incidents fell into the category ‘No case to answer’, and the second highest related to Professional Behaviour, which combines complaints made in relation to Staff Attitude, Staff Competency, and Staff Knowledge.

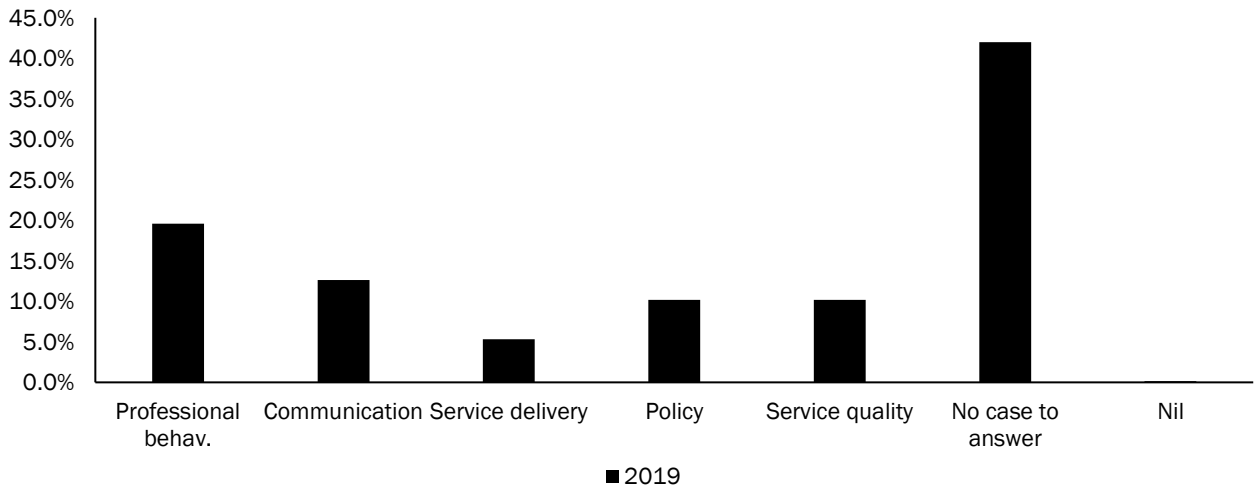


Figure 5.7. SA Department for Education root cause analysis of Level 2 incidents reported in 2019.

The CFU also records the resolution status of Level 2 complaints, which are represented in Figure 5.8 for the past 3 years. In the majority of cases, the CFU were able to assist with resolution of the complaint, and this proportion has increased over the 3 years to date (32.3% in 2018, and 68.7% in 2019).

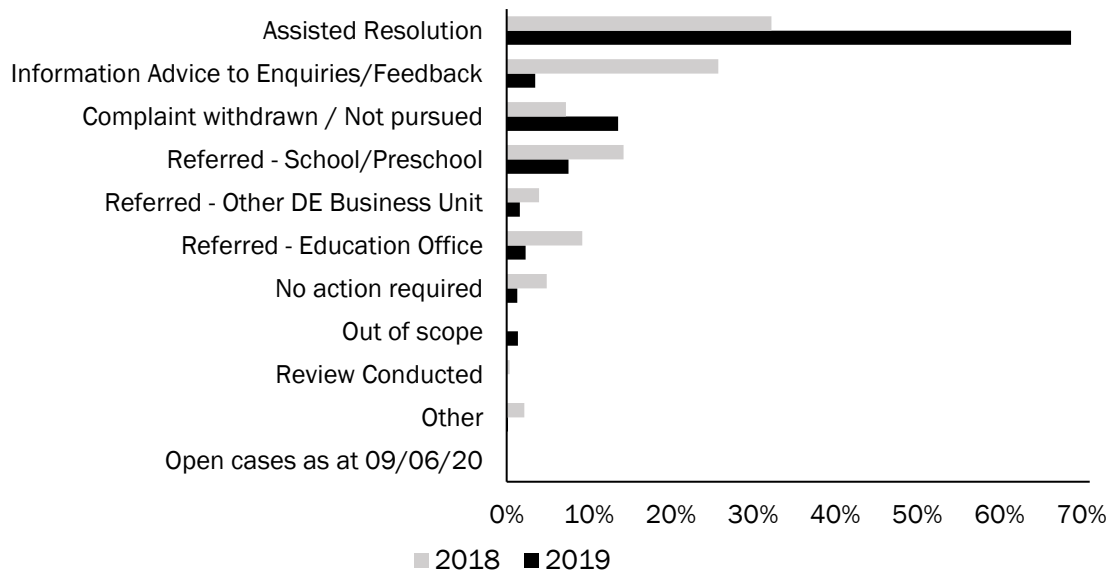


Figure 5.8. Resolution status of Level 2 complaints. Note. If more than one status applies, multiple categories can be selected for a single incident.

### 5.7.2 Education staff

Some staff expressed concerns about the misuse of the complaints process, and the fairness of the process for all involved. For example, one respondent expressed concerns that the processes were misused by parents for trivial matters, offering the example of parents lodging complaints when their child was moved to a different class. One wellbeing leader whose school has received complaints shared:

“It is a complex and time-consuming process to address these and generally results in the school being 'cleared' of wrongdoing. Despite parents having the opportunity to express their concerns, they very rarely listen to our point of view.” (*Wellbeing leader, survey response*)

Another example included the following scenario shared by one staff member:

“One ministerial our school dealt with was a student who missed out on an ice cream at OSHC. This ended up at the Ombudsman. Hours and hours of work went into our reply. How did it get to this level? So, I am unsure on what merits a complaint is assessed. There are grievance policies in place, but they must be followed by all members of the school community. Many parents demand resolutions immediately with us having no time to fully understand or investigate an issue. They also have no understanding of department processes and fail to recognise that these processes take time to address. Extreme levels of aggression from parents can hinder our ability to effectively deal with issues.” (*Teacher, survey response*)

A small number of teachers felt that the perception of parents was given greater regard in complaints hearings than the views of teachers who had witnessed or were involved in incidents. One principal detailed a case in which an appeal had been overturned, stating that they felt as though staff were not supported and were accused of doing the wrong thing.

Other respondents expressed significant concerns about the fairness of the process for the student and their parent or carer. One SSO also shared their views on how issues are managed at the school level,

“I have been involved with serious internal issues and the process is hopeless. Everyone has their recollection of how the process goes but only a lucky few can find the information. If the initial problem is difficult it may get diluted to a lower issue that doesn't require as much paperwork.” (*Student support officer, survey response*)

Education staff also offered some insights into issues regarding the accessibility of complaints processes, explaining:

“Parents don't want to complain about teachers. Teachers have no checks and balances for power if supported by principals. Principals often do what is needed to grease the wheel (stop the squeaking). Who is speaking for the child? Who is stepping up with checks and balances in the system? Where are the data about hours spent at school for children with disabilities, for other children at risk?” (*Student support officer, survey response*)

One teacher, also a grandparent, stated that they had experienced the complaints process and found it unhelpful to the child and the parent. During the complaint, they felt that the system “closed ranks” around the leaders. This resonates with a very strong theme in the responses of parents and carers, which we will examine later in this chapter. Similarly, another teacher expressed concern that the voice of the child is not heard during complaints and appeals processes, particularly when the behaviour of the teacher has been inappropriate and contributed to a behavioural incident that resulted in the student's suspension or exclusion. Further, an allied health professional who works as part of a disability support team, cited their concern about the onus on parents during these processes:

“The complaints policy relies on parents being educated, informed and to have free time to do this. The checks need to be built into the system, not as a response afterwards.” (*Allied health professional, survey response*)

As a solution, it was suggested by one principal that when it comes to appeals, employing:

“Case workers to support families and dedicated department staff to support schools through the process would be useful”. (*Principal, survey response*)

Most survey respondents that identified as behaviour coaches suggested the number of complaints could be reduced if coaches were mandated to attend exclusion meetings to support both the principal and the family through the process, and to ensure appropriate interventions and supports were in place to make the process effective. One respondent who identified as a behaviour coach shared their experience of a parent complaint that went unaddressed:

“I ... was certainly disappointed with way a parent complaint to ED was handled. Immediate handball down the ranks, no offer of support, no meeting. A round table meeting may have helped with problem solving.” (*Behaviour coach, survey response*)

Specifically regarding the CFU, some respondents indicated that complaints could be raised via that mechanism without the principal’s knowledge, and that these were sometimes not resolved in a timely manner. It was felt that this issue could be alleviated if complainants were asked to demonstrate how they had attempted to address these concerns at the school level. However, the CFU was also acknowledged for the approach they used to resolve complaints, which was considered “fact finding”, rather than adversarial, and for the thankless work that they do. There was a recommendation that an independent, neutral party may be needed to mediate complex appeals.

#### **5.7.2.1 Role of the SA Ombudsman**

Survey participants were asked to consider whether the South Australian Ombudsman should have their jurisdiction and powers expanded. They were also asked to consider whether an Education Ombudsman was needed and, if so, to discuss the scope of their responsibilities.

Most education staff had no interaction with the Ombudsman or no awareness of the Ombudsman’s role or powers, so were not confident to offer an opinion in relation to this question. One assistant principal suggested that the school and departmental level processes were fair, structured and led to effective resolution, but that the process managed by the Ombudsman was excessive and required streamlining. Two assistant principals had no experience with these processes.

It was noted by some principals, assistant principals, teachers and wellbeing staff that, if an Education Ombudsman was appointed, it would be essential for this person to have a clear understanding of the education context so that they could offer balanced recommendations for policy review. One allied health professional offered an alternative view stating that an Education Ombudsman would need to understand,

“...the neuroscience of the child's brain and the implication on 'behaviour' due to developmental challenges in addition to learning challenges, trauma, Autism, ADHD, etc would be a great idea. Their role influencing the education teachers receive in university and once in the field would be important.” (*Allied health professional, survey response*)

One principal noted concerns that the creation of an Education Ombudsman would layer a further level of accountability on teachers and principals, in a system already at breaking point. This was refuted by a small number of teachers. Some teachers viewed this as a positive step, removing the department from the process to ensure an impartial outcome in relation to complaints and appeals. One felt that the system now is very ad hoc, with limited oversight on the use of practices to manage student behaviour, and that the introduction of an Education Ombudsman would strengthen the system. Another stated an Education Ombudsman would have a powerful position in making recommendations on the advice of “...personnel that deal at the coal face with issues surrounding suspensions, etc.”

Some teachers argued the reactive funding spent on the creation of such a position would be better invested in preventive options such as Positive Behavioural Interventions and Supports or recommendations from the AEU and classroom teachers. Finally, several teachers saw the creation of an Education Ombudsman as an opportunity for them to lodge complaints in relation to bullying by parents or abuse by students.

One executive officer external to the Department for Education noted that the Ombudsman potentially is not resourced as well as it should be to ensure complaints are dealt with in a timely manner, especially if the scope of the Ombudsman’s powers were expanded. At the same time, this respondent suggested that there probably is not enough volume of education-related complaints to justify a standalone Education Ombudsman, unless perhaps an Education Ombudsman also had jurisdiction to review complaints regarding private and independent schools as well as government schools.

### 5.7.3 Current and past students

In response to the survey, one past student indicated a complaint had been upheld and that a staff member from the Customer Feedback Unit had been very supportive and fair. However, two survey respondents stated they had lodged complaints that were not addressed, explaining that their views were dismissed, leaving them angry and frustrated. Specifically, one student felt that they had been treated with ‘disdain and dismissal’, while a second disclosed that the information they had shared in confidence was disclosed to a third party without permission.

Some students expressed that they had decided not to make a complaint as they felt they would be ignored. This reinforces feedback received from students that they feel that they are not included in decision-making about suspensions or exclusions, and feel that their views are not heard in this process, impacting on the perception of fairness and students’ willingness to accept the decision made.

### 5.7.4 Parents and carers

The complaints section of the survey was completed by 165 parents/carers. Figure 5.9 displays responses from parents and carers in relation to their experiences of complaints processes, including complaints at the school level, complaints to the Customer Feedback Unit, and complaints to the Ombudsman.

Of the 99 parents or carers who had made a complaint directly to the school, only nine were satisfied with how it was handled (9.1%), while 90 (90.9%) were not satisfied.

Another 58 parents or carers (35.2%) said they had made a complaint to the Customer Feedback Unit, with just 12% of these respondents indicating they were satisfied with the

process. For those not satisfied with the complaints process, the dominant reason for dissatisfaction was frustration with communication, a feeling that the CFU consistently took the school’s side, and the sense that nothing changed.

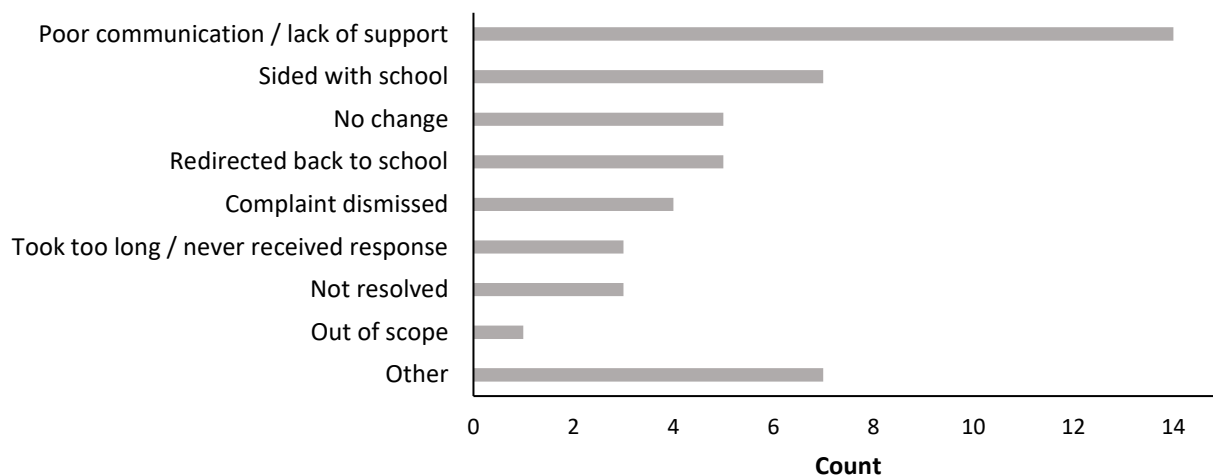


Figure 5.9. Frequent reasons for dissatisfaction with CFU complaints process.

Some example comments in relation to the complaints process included:

“I feel the school was not handling the problem but rather seeking for some other authority to handle it.” (Parent/carer, survey response)

“Often the school would make decisions without us and ask us to agree. We weren’t included in the process.” (Parent/carer, survey response)

“It took far too long for the complaint to be taken seriously. The onus of improving the situation was entirely put on the child and the school didn’t seem to have any techniques on how to manage this situation. It took many, many calls and meetings with the school. I had significant concerns and emailed about these issues and conduct of one of the teachers and this was ignored for months and I had to keep pushing for many terms.” (Parent/carer, survey response)

Several respondents also expressed frustration with the Customer Feedback Unit’s management of complaints, also indicating a sense of futility and perceptions of lack of independent in complaints management:

“The complaints line contacted the school. The school lied. The complaints line would not believe this and said they could do nothing else.” (Parent, survey response)

“I rang the phone line but was told the complaint would get funnelled back to the school to resolve. So, I went to the District Director. On another matter I went to my local member. The parent complaint line is a toothless tiger.” (Parent, survey response)

“It was like the department was defending the school no matter what.” (Parent, survey response)



“It was a copy paste answer which contradicted the suspension form as to the reason for suspension, and it appeared all they did was speak to the principal who justified her ridiculous actions with zero repercussions.” (*Parent, survey response*)

Only eight parent/carers (4.8%) said that they had made a complaint to the Ombudsman, with only two of these indicating they were satisfied with this process. Notably, 56 respondents (33.9%) indicated that they *did not know* that there was an option to complain to the Ombudsman, indicating there still remains a gap in knowledge regarding the complaints process, despite the SA Ombudsman’s 2016 audit report (considered in Chapter 3) and the Department’s provision of additional information about the complaints process in response to the Ombudsman’s recommendations.

Figure 5.10 summarises responses from parents or carers in relation to whether a complaint had been taken further, beyond the usual complaints processes considered above, including complaints made to another external body (e.g., SA Equal Opportunity Commission, Australian Human Rights Commission) or to a lawyer. A very small number of respondents indicated they had taken a complaint beyond the usual complaints process, including 13 to a lawyer, and just eight to external bodies, including the SA Equal Opportunity Commission (n=4) or the Australian Human Rights Commission (n=4). A large proportion of respondents indicated that they were not aware that they could explore these options, although it is uncertain whether the nature of the matters that the respondents were concerned about would fall within the jurisdiction of these other external bodies.

Still, this finding indicates that there is a lack of knowledge about other avenues for raising concerns about decision-making at government schools. It is also notable that a large proportion of respondents expressed concern about possible consequences for the young person if they *were* to make a complaint, raising concerns around parent and carer trust in schools’ decision-making.

This common feeling is exemplified in the following open responses:

“Granddaughter (name removed) begged me not to [make a complaint] because the teachers hate her enough” (*Grandparent, survey response*)


“I have other children in the school who like their teachers and have many friends and I am afraid if I take things further it may have a negative impact on my other children’s relationships with staff within the school” (*Parent, survey response*)

“Currently looking at this as an option, but also have 2 other children attending the school and I need to maintain a relationship with the school for them” (*Parent, survey response*)

“Formal complaints cause issues when trying to get people to work positively for the student. Attitudes change when complaints are filed.” (*Parent, survey response*)

Where respondents provided an ‘other’ reason for being unwilling to complain, many expressed the enormous sense of burden they experienced as parents and carers, and the lack of personal capacity to engage in a drawn out complaint process, which was often felt to be futile:

“With everything that goes on in day to day life I’m beyond exhausted fighting a system that seems unbeatable”. (*Parent, survey response*)



“Caring for a child with special needs is exhausting enough...advocating for him (regarding) NDIS is hard enough.” *(Parent, survey response)*

“The Commission is under resourced. Honestly, as a working mum stressed to the max with a special needs child with behaviour issues, needing to catch up at work because of take homes and suspensions - I just did not have the time or energy.” *(Parent, survey response)*

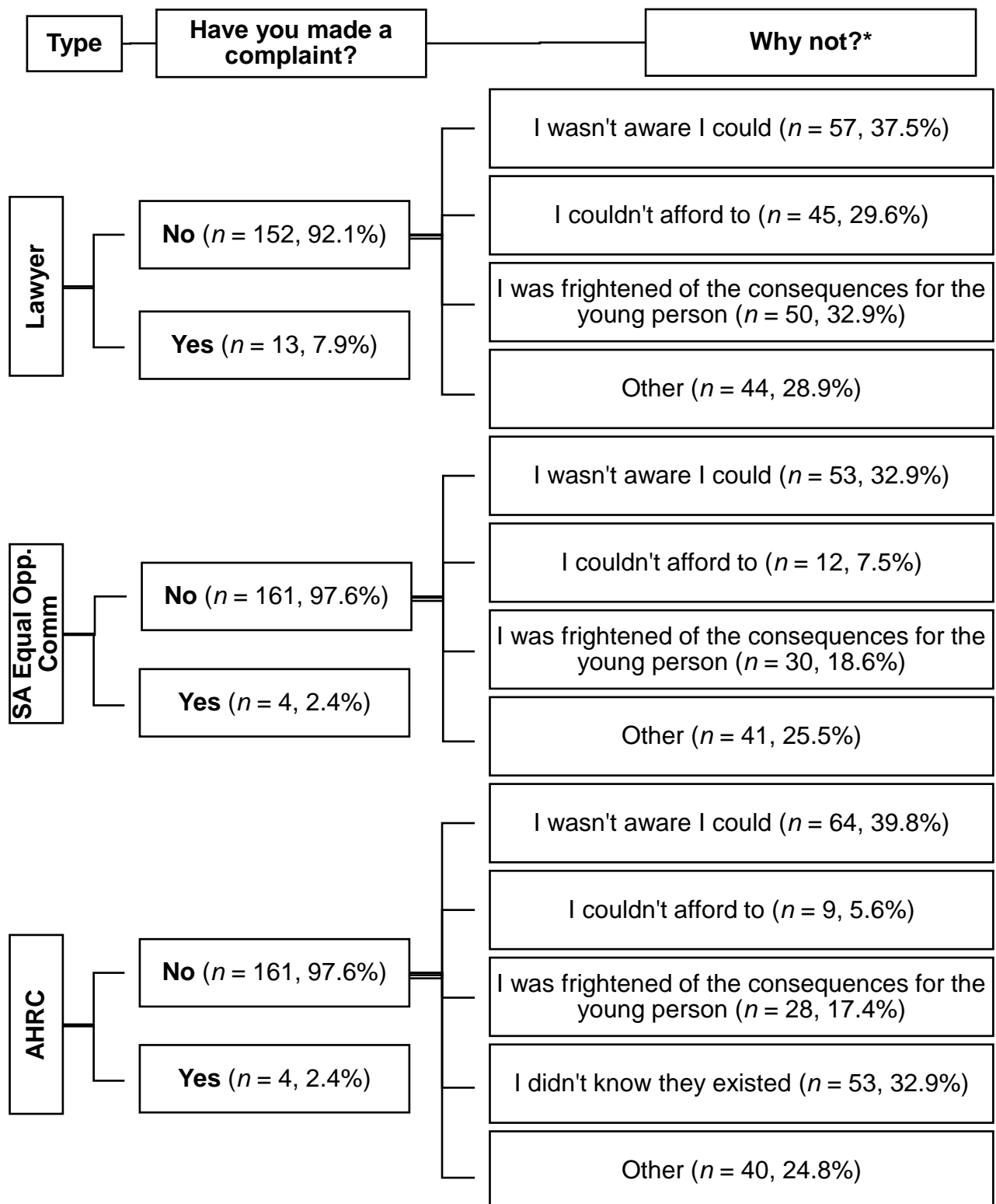


Figure 5.10. Responses to questions about complaints to lawyers, the AHRC, and the SA Equal Opportunities Commission.

### 5.7.5 Summary and stakeholders' suggestions for improvement

Respondents had mixed views about the efficacy of current complaints process. Many education staff shared concerns about the process being misused for trivial matters, the fairness of the process for teachers, the time-consuming nature of complaints, and a sense of lack of support in managing or responding to complaints. Others expressed significant concern about the fairness of the complaints process for students and their parents or carers, particularly in relation to a perceived power imbalance between students and their parents/carers versus school staff and principals.

Some staff also raised concerns about the accessibility of the complaints processes noting that some parents and carers may not have the ability, support or time to understand and navigate the process effectively, and noting that the process does not have adequate mechanisms to ensure parents are and feel supported through this process. Similarly, several respondents felt that the student voice is often not heard in this process. In response, it was suggested that consideration should be given to implementing case worker supports for families to support them through the process, and also to exploring whether further support can be provided to schools to ensure they respond to complaints in a way that recognises the barriers a family may face and the support they may need to navigate the process.

Concerns about the accessibility of the complaints process were reinforced in survey responses from parents and carers. Most respondents indicated they were not satisfied with the complaints process at both the school and the Customer Feedback Unit level, with many comments raising concerns about the lack of fairness and experiences of frustration with the process. Several respondents also expressed concerns about whether a complaint would result in consequences for their young person at school. It was suggested that consideration should be given to whether more independent supports could be provided to parents and carers, and to students to ensure their voice is considered and they feel supported to participate in the complaints process if they wish to. Many parent and carer respondents also indicated that they were not aware of complaints processes beyond the Customer Feedback Unit, including the option of making complaints to the Ombudsman, and the possibility of complaints to other bodies such as the SA Equal Opportunity Commission and the Australian Human Rights Commission. This finding suggests room for improvement in supporting parents and carers to understand the full scope of options to seek resolution to concerns around their young person's education.

Feedback in relation to the Ombudsman's powers was also mixed. Some felt that the external review process through the Ombudsman was excessive and requires streamlining. While respondents were not able to comment directly on the extent of training or knowledge of the Ombudsman in relation to education issues, a number of respondents considered it particularly important that the Ombudsman staff (or staff of an Education Ombudsman) be provided with professional development to ensure an adequate understanding of issues relating to the effects of trauma on a child's brain and the implications for student behaviour. Some respondents considered that the external review process through the Ombudsman (or a new Education Ombudsman) is critical to ensure adequate oversight of the use of disciplinary practices. However, it was also suggested that the funding that would be necessary to establish a new Education Ombudsman may be better invested in preventative options such as Positive Behaviour Interventions and Support (PBiS) and greater workforce investment to support inclusive education.

*Key suggestions for improvement from respondents included:*

- Explore options to improve support to all parties involved in the complaints processes, including the possibility of partnering with non-government agencies to provide more independent support to parents/carers and students to navigate the process in an appropriate manner, and to ensure students feel heard and able to participate in decision-making.
- Consideration be given to how existing information in relation to complaints processes may be further refined or more actively promoted to improve parents' and carers' understanding of the different avenues for seeking resolution of concerns regarding education.
- That the Ombudsman ensure that any staff dealing with complaints raised in relation to education issues be provided suitable professional development opportunities to ensure adequate understanding of the function of behaviour and impacts of trauma.

## 5.8 PURPOSE AND USE OF FORMAL AND INFORMAL EXCLUSIONARY DISCIPLINE<sup>3</sup>

### Terms of Reference:

- *The use of suspensions for attracting funding and other supports for students.*
- *The prevalence and use of formal and informal suspensions, exclusions and expulsions.*

The *Education and Children's Services Act 2019 (SA)* and Regulations, as well as SA Department for Education policies and procedures including the SEE Procedures establish the grounds and purpose of disciplinary responses including take homes, suspensions, exclusions, and expulsions. The 2019 SEE Procedures authorised the use of exclusionary discipline practices "to help irresponsible students to change their behaviour while protecting the rights of the wider community", and also to signal to the community that irresponsible behaviour is not accepted by the school community (SA Department for Education, *2019 SEE Procedures*).

The 2019 SEE Procedures also noted that to be effective, these procedures should:

- be used as part of a behaviour change plan developed for the particular student and situation
- be a time when education is expected to continue support the student to be re-integrated appropriately upon return to school
- support those affected by the student's irresponsible behaviour (SA Department for Education, *2019 SEE Procedures*, p. 8).

This language is not used in the new 2020 SEE Procedures. Rather, the 2020 SEE Procedures considers the need for recognising that student behaviour is purposeful, happens in the context of their environment, and is learnt over time. The 2020 SEE Procedures note that the following principles should guide schools' decisions about exclusionary discipline:

- Suspensions and exclusions are most effective when they are used as a part of broader intervention strategies to support safe and positive behaviours.
- Suspensions, exclusions and expulsions must be used in a targeted way to meet one of the 7 functions of the behaviour support policy. Suspensions, exclusions and expulsions are not designed to punish.
- Suspensions, exclusions and expulsions should be used as a last resort to meet the behaviour support policy's goal of safe inclusion for all children.
- Suspensions, exclusions and expulsions must be done in a way that is procedurally fair.
- The process of restoring the relationship between a student and the school community starts from the time a behaviour incident occurs. It continues through the process of suspension and exclusion.
- Special measures should be taken to support the inclusion of students who are at higher risk of suspension, exclusion and expulsion (including Aboriginal students, students in care, and students with disabilities).

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<sup>3</sup> As noted at the beginning of this chapter, take homes are a form of exclusionary discipline and as such are discussed here rather than in the specific ToR where they are explicitly mentioned.

Data from the Department for Education regarding the prevalence and use of formal take homes, suspensions, exclusions and expulsions is considered in Chapters 6 to 8.

### 5.8.1 Use of Suspension for Attracting Funding and Other Supports for Students

#### 5.8.1.1 Education staff

Participants were asked whether South Australian government schools and SA Department for Education staff work in compliance with current laws, policies, and procedures as they relate to the use of suspensions, exclusions and expulsions. Overall, most education staff were of the view that these practices were used with compliance. One principal stated:

“My experience is that [schools] are compliant. I have never heard of [suspensions/exclusions] being used to get extra support or funding.” (*Principal, survey feedback*)

In general, principals argued that suspensions, exclusions and expulsions were used as a last resort when other methods had failed, and that other strategies such as ‘take homes’ or internal suspensions are preferred. Principals maintained that using these practices allowed other students to learn in a safe environment. One principal stated:

“Suspensions, exclusions, and expulsions are used only when all other methods have failed, and the safety of others is at risk. There have been many occasions at my school where we haven’t suspended a student so we can support the family, build relationships, and ultimately support the child. This results in more work for us to manage an ‘internal suspension’ but if it works out best for the student, it is what we do.” (*Principal, survey feedback*)

Most staff respondents reported that the maximum length suspensions (5 days) and exclusions (10 weeks) are not usually used, and that typically the length of these disciplinary responses sits somewhere in the mid-range of permissible periods (e.g., average 3 days for suspensions, 6-7 weeks for exclusions). Most education staff also reported that they did not think there is any practice of strategically using suspensions or exclusions to build evidence of need for additional supports and funding. Most teaching staff reported that suspensions and exclusions are only used in response to high level behaviours.

There was a repeated message that teachers and students must feel safe at school, and that suspensions and exclusions are a necessary component of a school’s collection of tools to manage the safety of the school community. One principal called for a shift in the way suspensions are viewed, stating:

“Suspensions are often regarded as punitive. There are other reasons for suspensions including those that relate to the rest of the community. For example, in cases where there has been extreme violence, the other students need time to heal, reconnect and feel safe. Perhaps we need to look at another ‘consequence’ that just allows time for respite for the child at the centre of the incident and the staff/students who felt its impact.” (*Principal, survey feedback*)

This view was supported by one teacher who felt schools should have the power to expel students involved in bullying incidents for the safety of others. It appears that this view has prevailed in South Australia, as new legislation introduced on July 1, 2020 enables moving perpetrators of bullying to other schools. The impacts of such a practice is still to be determined.

While most teacher respondents (78.6%) to the submissions survey indicated a perception that exclusionary discipline is used appropriately, some teachers described other reasons for the use of these practices, including providing teacher respite or providing the teacher with an orderly learning environment. Of note, the responses did not indicate any sense of unease about suspensions or exclusions being used for these purposes.

Some respondents commented that the appropriate disciplinary response depends on the nature and seriousness of the incident, and that schools need to be flexible in determining the appropriate response to particular types of incidents such as fighting between students.

“...generally we only suspend if it’s significant violence or significant property damage, or significant threats... what we mean by ‘significant’? Well two kids can have a bit of a fight and that’s different to an assault. An assault we bring in the police, or exclude the student, we make no excuses for it. But if it’s two kids going the biff and then they [realise they’ve messed up again], I go ‘let’s learn from this fellas’”. (*Albert, School Principal*).

In Chapter 7, we provide a detailed analysis of an extensive array of the Department for Education’s data on take homes, suspensions, and exclusions, and note here that while this principal may be reporting on their genuine individual experience and perspective, it is not supported by the data at a systemic level. In other words, while individual teachers and principals may only use exclusionary discipline for significant violence, property damage or threats, very many more use it for minor matters. In fact, more Minor Physical Acts, such as the type ‘Albert’ describes, are among the most common reasons for take homes, suspensions, and exclusions, along with School Rule Violations like being out of bounds and not responding to reasonable instructions.

Several respondents reported there remains significant room for improvement in diverting students from reaching a point where suspensions or exclusions become a necessary response. As one respondent noted:

“It’s about diverting those students from suspension that can be diverted, and there is a lot more that we could be doing to achieve that”. (*Anna, DfE Policy/Executive Officer*).

The move away from Resource Allocation and Adjustment Panel (RAAP) Disabilities funding (which required evidence of suspensions to attract funding) towards the new Inclusive Education Support Program (IESP) funding (where the emphasis is on adjustments and functional need) was viewed to have reduced suspensions. However, in contrast, others did indicate that suspensions and exclusions are used to build evidence for more supports. One assistant principal stated,

“The outcome of suspension and exclusion is the flagging to the system that there are ongoing issues that need addressing, such as highlighting student needs that are not able to be addressed via existing resourcing.” (*Assistant principal, survey feedback*)

Other education staff agreed stating that suspensions provide a means of highlighting that the school requires additional resourcing, additional staff, or staff training to address behaviours of concern.

Two principals were concerned by the lack of resources and services available in rural and remote areas, acknowledging that this sometimes created no alternatives to suspension. One retired educator also raised concerns, stating,



“In theory ‘the department works in partnership with school communities, services and agencies to create learning communities that are: safe, inclusive, conducive to learning, free from harassment & bullying’. As a retired Early Years Educator, I am gravely concerned about the rise in suspensions, exclusions & expulsions of children in the Early Years. Are these processes transparent? How would the public know? They are certainly not inclusive!” *(Past teacher, survey response)*

Education staff raised several other concerns about the use of take homes, suspensions and exclusions. For instance, one teacher stated:

“From my experience, most are done well, even if unofficially; i.e., for the benefit of the school students, including the excluded child. I have seen, however, the threat of suspension, and actual use of it to get rid of a parent who had legitimate complaints about the school management. (No student at the school = go away noisy parent).” *(Teacher, survey response)*

One current principal stated:

“I am aware of some schools repeatedly suspending children until parents choose to move schools.” *(Principal, survey response)*

Some respondents perceived that these practices were used at times without consideration of a student’s disability or how it manifests behaviourally, or taking into account the trauma some students in care experience, concluding that it happens “...again and again in some schools”. Another teacher cited a lack of consistency in the implementation of these practices across schools, and noted the resultant frustration experienced by both parents and students.

#### 5.8.1.2 Parents and carers

The suspension section of the submissions survey was completed by 188 parents or carers. Of these 188 respondents, 139 (73.9%) reported that their young person had previously been suspended, and 49 (26.1%) reported no previous suspension.<sup>4</sup> The parents or carers of a young person who had been suspended were asked whether they had ever been told that a suspension was necessary to secure funding to support the young person. Those who said yes were asked to describe in open text.

In contrast to education staff responses to the submissions survey, nearly one third of parent/carer respondents (30.9%) said that they had been told by school staff that the suspension was necessary to secure funding. The open-ended responses providing more detail in relation to this question indicated that this had been communicated both explicitly and implicitly. For instance, parents explained that for SSO hours to be provided, they were told that certain ‘patterns of behaviour’ in terms of suspension rates had to be evident. For example:

“He would've been suspended more often but sometimes they just write in the paperwork that he has been suspended even when he actually isn't required to stay home. They said it's so DECD have a record of it, if they need to apply for more support for him.” *(Parent/carer, survey response)*

“Being told by the principal ‘do not think of the 2-day suspension as a suspension, but as a way to get funding for support from the education department.’” *(Parent/carer, survey response)*

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<sup>4</sup> 25 participants did not attempt/complete the Suspensions section.

Sometimes, the reason given was that without a diagnosis, this was the only way to obtain support:

“Was told by the principal that the more times my son was suspended and/or excluded the more likely he was to receive funding. This is because my son has no diagnosis so was unable to get funding for a long time.” *(Parent/carer, survey response)*

“I was told that the more suspension and negative behaviors that were recorded the better chance of the school gaining additional funding for my child. I was also told that without a formal medical diagnosis my child couldn't receive extra assistance”. *(Parent/carer, survey response)*

However, respondents stated that the additional funding is not always obtained:

“Last year I was told that ongoing suspensions, and then exclusion would result in full time SSO support being granted this year. However only 7 hours of support available.” *(Parent/carer, survey response)*

“They have said they need it for his records to get funding. No funding has been secured.” *(Parent/carer, survey response)*

Clearly there is significant discrepancy between the reports of education staff and those of parents and carers. The consistency in parents/carers accounts, however, and the fact that their comments resonate with comments of parents of students with disability, as well as school staff in other states (Graham, 2015; 2018; 2020), suggest that there is a perverse incentive built into the SA Department for Education's support allocation method that IESP may or may not address.

## 5.8.2 Prevalence and Use of 'Informal' Suspensions, Exclusions and Expulsions

### 5.8.2.1 Education staff

Survey respondents were asked to identify any instances of 'informal' suspensions, exclusions, and expulsions, and whether systems were in place to monitor and prevent these from occurring. Principals and assistant principals stated that they were generally unaware of any informal instances of these practices occurring, with some even expressing surprise at the existence of an 'informal' suspension, exclusion, or expulsion. Over half of teacher respondents (57.1%) stated that they had never observed informal suspensions, exclusions, or expulsions in practice.

However, one principal acknowledged that they were aware of colleagues who repeatedly sent students home or placed students on part-time programs for extended periods. They further expressed concern regarding students being placed:

“...in a special option within the school because of behaviour reasons without being special class eligible.” *(Principal, survey response)*

One teacher acknowledged that their school does ask students to “...take a break from school for a few days”. They further indicated that schools will recommend to parents that their child would “...be better served enrolling at [name removed] school, as he/she is not going to succeed here”, although they noted that this more often occurs in private schools trying to remove students and send them to government schools. This practice is known as gatekeeping and is a breach of the *Disability Standards for Education 2005* (Poed et al., 2020).

Two principals were concerned by the lack of resources and services available in rural and remote areas, acknowledging that this sometimes created no alternatives to suspension. One principal voiced a preference for time out rooms, refocus rooms, emotional regulation spaces, or internal suspensions, as they believe these practices allow preventative work with targeted students. Teaching staff also noted various informal methods employed, which were not noted in any official documentation. For instance:

“Office time out [internal suspension] is used as an alternative, but this does not appear in the statistics and therefore masks the problem.” (*Teacher, survey response*)

There were some arguments that these “refocus rooms” or time out sessions did little to address student behaviour and, once returned to class, the student’s behaviour usually re-escalated. Concern was expressed by some teachers that students were being “...given too many chances”, resulting in learning being disrupted and staff and students feeling threatened. A wellbeing leader stated they were aware that schools used internal suspensions when parents failed to collect their child who had been suspended, while another stated they were aware of schools offering internal suspensions in alternative spaces as a way of supporting working families.

Some teachers expressed concern in relation to the lack of monitoring of other preventative practices they deemed effective, including the confiscation of mobile phones, as well as the use of detentions, time out, withdrawal, “take homes”, and internal suspensions. In relation to practices such as these, one teacher commented,

“These are all effective intervention strategies which should be used but the DfE wouldn't have a clue how often or why they are being implemented. There would be no data on some of these lower level interventions being forwarded to the department.” (*Teacher, survey response*)

Acknowledged across several submissions was the complexity of decisions made regarding these processes:

“No matter what process though, the base issue is never black or white. The most distressing element of behaviour support is the attitudes and lack of support from a majority of families and the media. There isn't a real appreciation or understanding of the work schools do.” (*Teacher, survey response*)

One assistant principal, however, stated informal use of these practices were,

“...deemed an ‘easy’ way to quickly manage situations. This is done far too often when other forms of management should be used. More systems and processes are required that are child focussed and long-term solution oriented.” (*Assistant principal, survey response*)

Three out of four of the behaviour support coaches stated they were unaware of the use of informal suspensions but did express concern about the under-reporting of the use of “take homes” or “early departures”. In contrast, the other coach noted:

“I have seen examples where sites have internally suspended students and not recorded this adequately on EDSAS. I have also seen examples where students have been asked to stay home as oppose to suspensions in order to make data look better. The systems to monitor this are largely internal at each site, therefore a site leader or delegate has complete control.” (*Behaviour support coach, survey response*)

This coach also noted, within the survey, that the paperwork on EDSAS challenges some school leaders.

One senior staff member with leadership responsibilities in a large low-socioeconomic secondary school maintained that there is a lack of accountability across the system, enabling principals to “...*manipulate and change data*” to escape scrutiny from central office. This staff member also stated that FLO attendance needs to be submitted every term, however, as non-attendance in FLO and ALP is rife, he was pressured to change the absence codes of non-attenders to a “G code” which designates attendance in an off-site program. When the staff member refused to falsify the data, the codes were changed by his line manager.

“Accountability at the site level... it’s basically up to the principal as to whether they follow policy and procedures and there’s no accountability. There’s a lot of wiggle room”. (*FLO Coordinator, consultations interview*)

This same staff member also revealed that take homes were being used in lieu of suspension but not reported on the Department’s system, only at the local school level. This, he said, was a way of keeping official take home and suspension numbers down and away from SA Department for Education scrutiny, rather than as a strategy to keep students in school. These practices, it was suggested, are not isolated to this one school and that they were developed and are endorsed by the Education Director for that region.

Students with disability, particularly those with autism or those that have difficulty regulating their emotions or behaviour, were repeatedly noted as vulnerable in the use of these practices. In response to what schools consider anti-social or aggressive behaviour, one teacher explained some children are “...*encouraged not to attend*” camp or excursions, in breach of the *Disability Standards for Education 2005* (Cth). It was acknowledged by several respondents that schools failed to provide reasonable adjustments or to consider behaviour as a manifestation of disability, both of which are also legislative breaches (Poed, 2016; 2019; 2020). Students in smaller schools with less resourcing were considered at greater risk of being exposed to these informal practices. All these actions expose the SA Department for Education to the risk of litigation.

Reforming relevant policy and improving the implementation of suspensions, exclusions and expulsions was considered very important to the futures of the most marginalized students. One allied health professional summarised this by stating,

“Exclusion from any time at school denies children their only right under the Education Act. It affects their education, their development, their self-belief, and their social inclusion. It’s not ok”. (*Allied health professional, survey response*)

One respondent recommended that suspensions and exclusions,

“...should be used as a last resort and almost never used for students at extra risk (children in care, Aboriginal students, children from further disadvantage, and students with a disability).” (*Allied health professional, survey response*)

Marginalised students were considered at risk of poor life outcomes due to their inability to successfully negotiate the education system. It was suggested that if the SA Department for Education can get these systems working effectively with the aim of restoring the student’s relationships with peers and/or teachers and providing inclusive education environments where achievement for all students is supported and celebrated, then South Australia will reap

the benefit in the years to come. Failure to address the shortcomings with the system will have profound negative impacts on the most at-risk students and the socio-economic fabric of the state in the decades to come.

#### *5.8.2.2 Current and past students*

Student responses to the submissions survey spoke of the use of suspensions and exclusions. Three of the current students acknowledged they had received a suspension, with one of these also advising that they had been excluded for between four and ten weeks. Four of the past students indicated they had been suspended, and three indicated that they had been excluded for four to ten weeks. The past students indicated they felt upset, frustrated, humiliated and isolated when suspended. The reasons noted by both groups for their suspension were fighting/conflict, talking back to teachers, swearing, not following instructions, or getting drunk or stoned at school. Notably, several students also spoke of being suspended or excluded from school for 'wagging' and questioned the sense in suspending or excluding a student who is already avoiding school. Their observations resonate with the scholarly literature and the evidence that exclusionary discipline has a reinforcing effect when used in response to disengagement or truancy, given that time away from school provides students with relief from aversive experiences.

#### *5.8.2.3 Parents and carers*

Parents and carers were invited to provide feedback in relation to the frequency of take homes, suspensions and exclusions, as well as the reasons given.

**Take homes.** The take home section of the submissions survey was completed by 202 parents or carers. Of these 202 respondents, 148 (73.3%) reported that their young person had received a had experienced a 'take home'. Of the students who had received a take home, 55.4% of parents or carers reported that it had extended beyond a single day, while 91 (45%) reported being asked to take their young person home (or keep them at home) to avoid a formal suspension or exclusion. Figure 5.11 displays the estimated frequency with which individual young people experienced take homes according to their parent/carer. The most common frequency with which take homes were issued was on a weekly basis (25%). However, a notable 17.6% of the sample reported that their young person was issued a take home every few days, and 7.4% specified daily take homes.

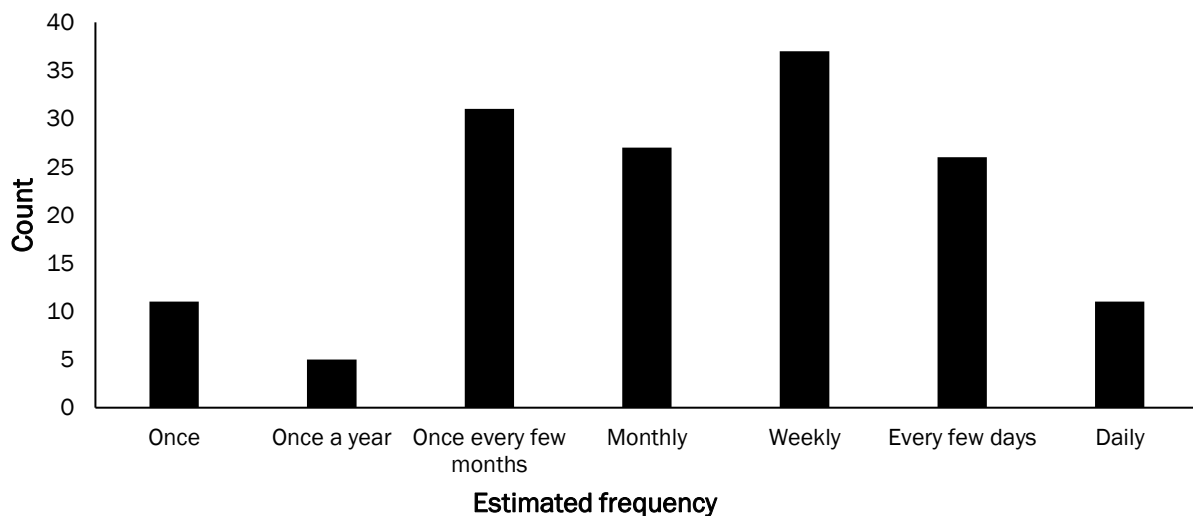


Figure 5.11. Estimated frequency of take homes given to young people, as indicated by parent/carers.

When questioned as to the reason for the Take Home(s), common responses from parents or carers included:

- in response to emotional outbursts (generally attributed to the young person not having adequate supports in place in school),
- due to teacher/staffing burden and absence,
- used as punishments for retaliation/defensive response to bullying,
- being issued in lieu of suspensions to keep things 'in house', and
- subsequently converted to suspensions.

These data indicate that take homes are commonly being used inappropriately risking significant loss of learning opportunities and disengagement from education, raising concerns that existing processes, guidance and monitoring around the use of these strategies is ineffective and failing to ensure compliance with international conventions, as well as relevant legislation and policy.

**Suspensions.** The suspension section of the submissions survey was completed by 188 parents or carers. Of these 188 respondents, 139 (73.9%) reported that their young person had previously been suspended, and 49 (26.1%) reported no previous suspension.<sup>5</sup> The parents or carers of a young person who had been suspended were then asked to estimate the number of suspensions their young person had received (Figure 5.12).

<sup>5</sup> 25 participants did not attempt/complete the Suspensions section.

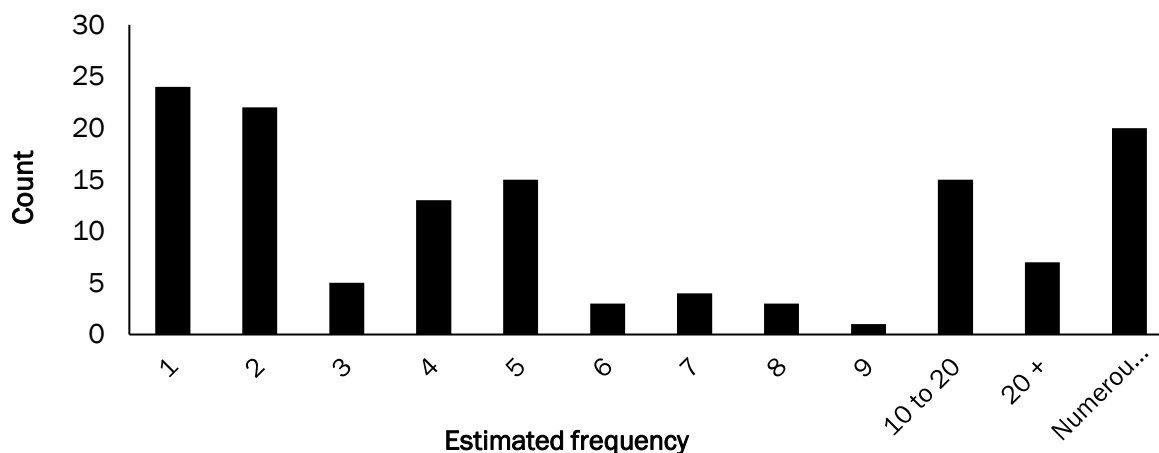


Figure 5.12. Frequency of suspension. \*Respondents in this category typically stated that there were ‘too many (suspensions) to count’. 7 respondents are not included in this figure, as they stated that they were unsure of the number of suspensions experienced.

Figure 5.13 displays the length of suspension reported by parents and carers specific to their young person. A three-day suspension is most common among this group of participants, followed by five-day suspensions. It is important to note that the submissions survey data is biased by the types of respondents who are motivated to complete a survey on this topic. Actual take home, suspension, and exclusion data for the whole population, recorded by schools and provided to the Inquiry team by the SA Department for Education, are analysed in Chapter 7.

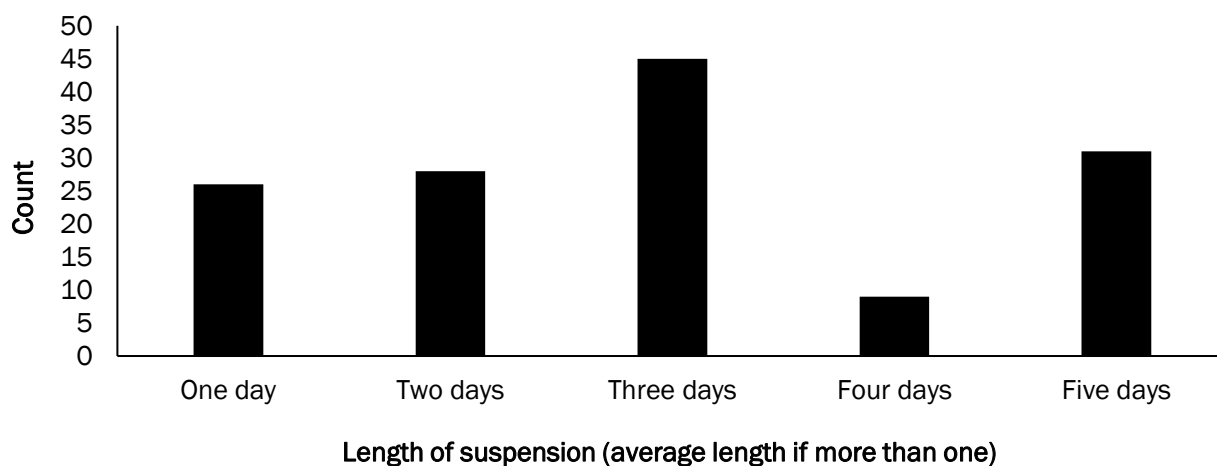


Figure 5.13. Length (or average length) of suspension(s) reported for the young person.

Most respondents did not feel the decision to suspend was appropriate (114 out of 139; 82%). These 114 respondents provided feedback about why they did not believe the suspension was appropriate, and their responses have been analysed thematically below.

Parents and carers commonly queried the incident which had prompted a suspension. In many cases, suspensions were perceived as unwarranted by the behaviour. For example, suspensions were cited as being issued for reasons such as “not following instructions” (resulting in a 3-day suspension) or “throwing a pencil or walking out of class”. Parents and carers commented,

“‘Not following instructions’ I believe isn't a great reason for three days off school”.  
(*Parent/carer, survey response*)

“When it's for something like throwing a pencil or walking out of class that seems a bit over the top”. (*Parent/carer, survey response*)

Moreover, some viewed suspensions as an inappropriate response to incidents arising from developmental delays or difficulties associated with the young person's disability. For instance, one respondent remarked:

“...when a child with autism cannot sit for long periods and needs a different environment given, (one) can't just suspend him for not fitting into the 'ideal' world”. (*Parent/carer, survey response*)

This frustration relating to disability was expressed again by several respondents who perceived that staff were often not being equipped to support students with disability, or not adhering to the plan/recommendations provided by the professional or parent/carer. One respondent commented:

“I feel appropriate allocations and strategies were not implemented (as recommended by professionals) and expecting my son to 'behave' as a neurotypical child. The meltdown behaviour has been treated as a behaviour problem and less focus on regulation and prevention which would be more beneficial. Suspending a child for their meltdown which is a direct result of their disability further upsets and isolates a child. There is little to no focus on what can be done to help and only focusing on following the rules and not 'acting up'.” (*Parent/carer, survey response*)

Another theme which emerged from responses concerned the effectiveness of suspension more generally. Many parents and carers generally perceived suspensions to be ineffective in addressing the root cause, finding that there was no support provided to remedy the behaviours which had triggered the suspension.

One respondent commented that suspension “...*only shifts the problem to home. Doesn't address the cause only the result.*” Similarly, another remarked:

“ID (Intellectual Disability) ...he had no idea what he had done, '5 days to reflect on his behaviour'- still he has no insight and ability for self-reflection and regulation. So back to school and suspended again.” (*Parent/carer, survey response*)

In addition, several respondents noted that suspensions were viewed as a reward by the young person, serving to reinforce the problem behaviour. The comments below highlight this idea:

“In some circumstances it was appropriate, they need to learn when they are showing incorrect behaviour, however, I don't think letting them have a week off of school is an appropriate punishment. It just teaches the student to play up if they want a week off of school.” (*Parent/carer, survey response*)

“I do not agree with suspension. It just teaches the child that if you do not behave appropriately then you get to go home and stay home for couple of days.” (*Parent/carer, survey response*)

Finally, equity surfaced as a theme in several responses, such that some parents and carers perceived lack of fairness in who receives a suspension, in cases where more than one party is involved in the incident. One respondent said:



“Other children were involved without consequence. Once he wrote a letter of apology without prompting and it was ignored but my son also suggested his friend do the same to which he did receive a response.” (Parent/carer, survey response)

It is also worth noting that when asked if they believed the suspension was appropriate some parents and carers responded, ‘sometimes yes, sometimes no’, perhaps reflecting some of the complexity involved in the decision to suspend, but also a perceived lack of consistency in the use of suspensions.

**Exclusions.** The exclusion section of the submissions survey was completed by 183 parents or carers. Of these respondents, 42 parents or carers (23.0%) reported that their young person had previously been excluded on at least one occasion.<sup>6</sup> The parents or carers of a young person who had been suspended were then asked to estimate the number of exclusions their young person had received (Figure 5.14). In most cases, only one exclusion had been experienced; however, 11 parents/carers (26.2%) reported that their young person (over a quarter of the young people excluded) had experienced three or more exclusions.

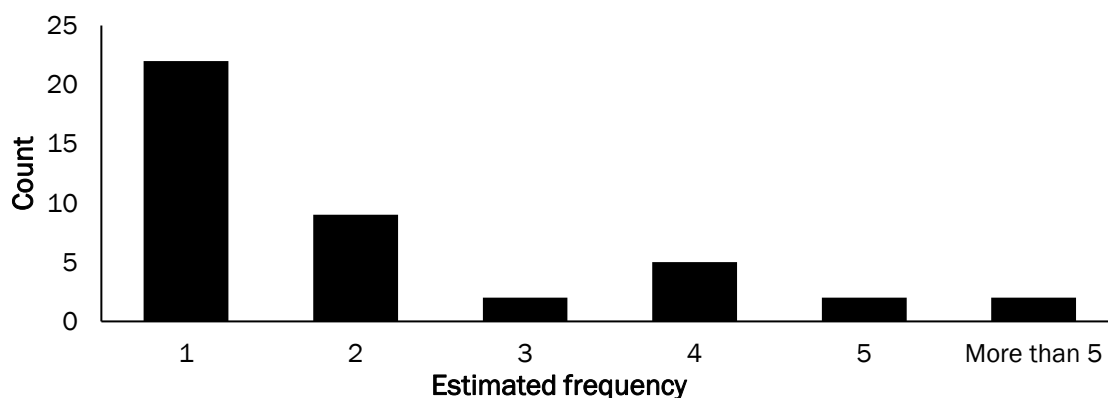


Figure 5.14. Number of times the young person has been excluded

As displayed in Figure 5.15, 10 weeks was the most common length of exclusion (57.1%) among the sample of young people whose parent or carer responded to the submissions survey.

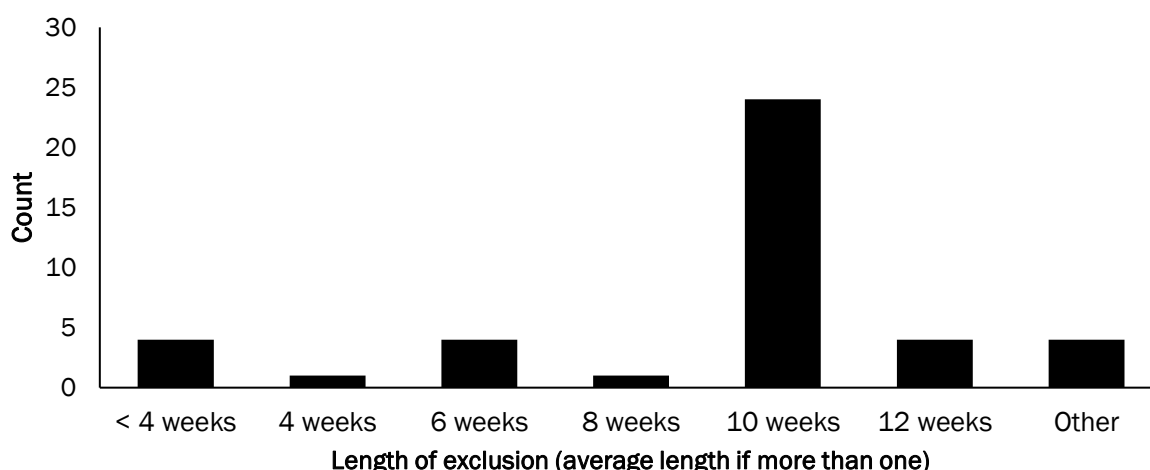


Figure 5.15. Length of the young person's exclusion.

<sup>6</sup>48 participants did not attempt/complete the Exclusion section.

The most common reason provided for exclusion was violence / aggression / threatening behaviour (31.0%), followed by escalation due to previous suspensions (19.0%), and more vaguely termed 'behaviour' issues (19.0%). Among the various other reasons given, two parent/carers (4.8%) reported that their child was excluded due to disengaged or off-task behaviour, and another two (4.8%) reported that the young person was excluded so that they could benefit from an alternative education facility. Importantly, the reasons given by parents and carers align with the actual SA Department for Education data, which finds much higher proportions of exclusions in the minor reason categories than in major reasons categories. This analysis is provided in Chapter 7.

**Expulsions.** Of the respondents who completed the Expulsion section ( $N = 179$ ), the majority (95.5%) had not been expelled. Only eight parents and carers indicated that their young person had experienced an expulsion, which is similar to the number of expulsions recorded in official SA Department for Education data ( $n=7$ ). Notably, two of these eight young people were reported to have a disability, two others had experienced childhood complex trauma, and the remaining four had both a disability and trauma. All eight parents or carers said they were forced to take time off work to supervise their young person due to a take home, suspension, or expulsion, with five saying they were unable to work regular hours due to the caring demands incurred through SEEs. While a definition of expulsion was provided in the submissions survey instrument to guide respondents, there may still have been some confusion among respondents as the actual SA Department for Education data records only seven expulsions since 2007.

#### 5.8.2.4 Other stakeholders

There were two respondents to the submissions survey who identified as 'Interested Members of the Public', and seven identifying as 'Other'. These respondents spoke of the significant complexity of decision making around take homes, suspensions, and exclusions, and how this impacts students and their families:

"I was really horrified in ... the lack of inclusivity and the amount of exclusion for children, particularly with ASD ... and how completely futile that was for the child, and for the family, it meant ... the parents couldn't work or go about their daily activities so it created more stress, more anxiety for the family and really just compounded issues contributing to difficulties at school. It seemed to me ... to be a method for the school to just get rid of the child for a little while so they could get a break." (*Rhiannon, Other government agency - Executive Officer*).

Some respondents spoke of the need to consider how to address issues without always resorting to exclusionary discipline, even though this might be the easier option and may be strongly supported or expected by other parents or school council members:

"...there can be a schism too between the school and the parents, even the school councils... the principal said, "No, we just can't punish kids all the time, we actually have to work with them." And it was clear that if you asked the parents there would be an expectation that there would be consequences for actions like suspension... but the school said, "No, these are incidents ... we have to make them accountable by being here, working through it, rather than just very easily just suspending them." (*Matthew, Public - not for profit sector*).

With respect to take homes, some respondents suggested take homes could be positive in intent, presenting staff with the opportunity to support students by removing them from a

stressful environment before escalating to more serious behaviour that could lead to more formal disciplinary responses such as suspension.

“I think it happens quite a bit and I think sometimes it can happen as a way to sort of prevent a further escalation and a formal suspension. Often it can happen when there might have been a bit of a build-up during the day of some instances where a young person has been struggling to manage ... it might have, if they expressed some trauma-based behaviours or difficulty with their arousal levels, and it might have built up and they want to prevent and you know, like a behavioural outburst or, um, something where a child has a negative experience at school.” (*Graham, Other government agency*).

“I have had ... some young people who have had those take-homes. But I've, I've really viewed that as the school trying to be really creative about how they managed a situation... they didn't want for that young person ... to go down the formal pathways of exclusion or expulsion or anything like that... the school were really invested in the young person and didn't, they didn't want the negative applications of those policies coming into effect. So there was potentially some good that came with that.” (*Justine, Other government agency*).

Others though raised concerns that the use of take homes could result in detrimental impacts on students and are inappropriately used in some circumstances.

“...it can send a message to the young person that, you know, they're too much and they need to, you know, they can't be managed or that they can't work through and help that young person to- to come and settle at school.” (*Barry, Other government agency*)

Respondents also commented that take homes may often be used in situations where the student could otherwise have been supported to de-escalate and re-engage in the classroom environment with appropriate, targeted support from a teacher or student support officer (SSO).

“I have had, you know, teaching staff where there might be young people that have got high needs that might be trying to self-regulate in the classroom, they might be ripping up little bits of paper, they might be rocking or tapping something. And that can very quickly lead into like a punitive type response and then an escalation of that young person and then before you know it, it's a take-home ... often it can happen whereby the school hasn't got the resources like a, an SSO or something like that to be one-on-one with that young person to help bring them down and to help calm them and to help them feel safe in relationship. So instead the schools can often call a carer or a parent or a grandparent or whatever and ask them to be picked up... and sometimes it's based on them not having the resources for a person within the school that has a good relationship with a young person to maybe spend some time one-on-one, to get them to come and regroup and then re-enter. Or it could be that they don't actually have the space you know, another space in the school outside, you know, physical space in the school for a young person to be able to go and settle, and then potentially re-join the class.” (*Justine, Other government agency*).

“...schools may utilise the take-home so that they didn't go down the pathway of the formal suspensions and what have you. But what that is a recognition of is that the school and the staff at that school wanted to do things differently, but the system didn't necessarily support them to do that.” (*Zora, Other government agency*).

When asked about the informal use of suspensions, one respondent expressed concern that,

“Schools will use take homes because you can no longer suspend a child under 7. However, this doesn't stop 7-year old's from throwing a chair at another child and all the

school can do is redirect them under the law.” (*‘Other’ respondent (respondent type not disclosed), survey response*)

Another stated,

“This is happening too much. A contributing factor is the perceived need for schools to compete with each other and preserve an illusion of being a perfect school so that no-one wants to do the thankless hard yards on a shoestring budget. At the same time kids needs are often complex.” (*‘Other’ respondent (respondent type not disclosed), survey response*)

One respondent also had strong views on students who engage in bullying and violence. They expressed concern that the system protects the bully and often forces the victim to change schools. New legislation introduced during this Inquiry will go some way towards appeasing such views, however, it remains to be seen whether moving perpetrators of bullying on addresses the behaviour or whether it increases resentment and subsequent victimisation.

Respondents also spoke of the critical importance of school attendance, and the compounding impact that suspensions or exclusions can have on education access particularly for students who are already missing school or at risk of disengaging:

“...a lot of these kids start behind...they’re never going to catch up if they’re missing school...if you look and ask, the kid’s suspended, are they missing school as well, and they probably are...you know, they are already missing school and then they miss more because they are suspended”. (*Matthew, Public – not for profit sector*).

“...the more they use suspension, the greater the gaps grow...so these kids end up falling through the cracks...suspension should be a really big deal”. (*Justine, Other government agency*)

A number of respondents commented on the negative psychological impact repeated suspensions, take homes or reduced hours can have on the student, and the impact on continuity of student relationships with peers and staff which are critical to supporting a student to feel a sense of belonging, trust and confidence in the school environment.

“I’ve had multiple kids that have, you know, struggled with the school environment... that’s quite common for a lot of our young people that have had significant trauma and may have ASD or other complicating factors as well. And they may be on quite reduced hours and they may have quite frequent take-homes or suspensions, meaning their school attendance is so low and they feel so negative about themselves at school that having big breaks and then coming back, then you’re dealing with the anxiety leading up to re-entry and then not necessarily having that continuity of relationships with teaching staff where they feel that there’s that rupture and repair.”

“...if you look at where the child’s coming from and their development and so forth, they are probably managing the best they can within what they can do. That’s what the expectations might be, a bit unrealistic, but it means that they, in a sense get excluded from education and it can sort of compound and build.”

“I just wonder if there are frequent take homes or suspensions, whether it might be harder, it makes it harder for young people to feel connected to their peers at school or feel like they belong.” (*Zora, Other government agency*).

Respondents also spoke of other significant impacts frequent take homes, suspensions or exclusions can have on students, particularly those in care, including impacts on stability and continuity of relationships in kinship or foster care placements.

“I could think of like multiple circumstances where really frequent take-homes and suspensions has meant that a carer hasn't been able to maintain a placement for a young person because they're not getting an education and now they are not able to manage 24/7, um, you know, with a young person that really has that, those high needs and the carer felt that they can't manage any longer with the young person with such high needs at home so frequently instead of at school” (*Justine, Other government agency*).


“...have carers who have kids that get take homes and suspensions, and for many of them it is overwhelming, school sometimes is the only respite for the carers, have seen a number of placement breakdowns due to these issues, not necessarily these issues alone but does compound other issues.” (*Zora, Other government agency*).

#### **5.8.2.5 Summary and stakeholder suggestions for improvement**

The majority of education staff expressed a belief that suspensions, exclusions and expulsions are used in compliance with legislation and SA Department for Education policies and procedures, and only used in response to serious behaviours. However, there were many suggestions that improvements could be made to support more effective early intervention to avoid the need for suspensions or exclusions and to divert students from these types of serious disciplinary responses. Some respondents noted this was particularly true for students with disability and students in care, where suspensions or exclusions had been used without proper regard for the impact of trauma or consideration of a student's disability and support needs. This is despite recommendations in the 2011 Cossey Report, and again in the 2016 Nyland report that the SA Department for Education support schools to implement alternatives to exclusionary discipline, including restorative justice practices, to ensure exclusionary practices are used as a last resort. The 2017 report following the Select Committee Inquiry also made recommendations that schools should not use exclusion or suspension as a default behaviour management strategy for students with disability. Feedback from stakeholders suggests that these recommendations have not been effectively implemented.

Many respondents, particularly parents and carers, as well as some students, commented on the overuse of take homes, suspensions and exclusions for relatively low-level behaviours such as not following instructions, throwing a pencil, or walking out of class, and in response to behaviours or difficulties associated with a young person's disability. A range of respondents commented that staff may not be well-equipped to support students with disability or that they do not provide supports or interventions consistent with the student's behaviour plan, leading to the overuse of suspensions or exclusions which were ineffective in supporting the achievement of learning and behavioural goals of the student. Students also raised concerns that suspensions were being inappropriately used in response to 'wagging'. Several respondents commented that the use of suspensions and exclusions in response to these types of behaviours is likely to compound issues for the student and their family and undermine the achievement of learning and behavioural goals.

Education staff noted that suspensions and exclusions are used as a means to demonstrate that additional resourcing, additional staff or staff training is required to meet the needs of students, particularly in rural or remote areas where limited supports may mean that there are fewer alternatives to relying on suspension or exclusion. This was reinforced by parent and carer responses with 30.9% indicating they *had* been told that suspension was necessary to secure funding for the student. It is notable that the model of funding for students with disabilities was recently changed and that it may be too early to determine whether the new IESP funding model



will mitigate this practice. Furthermore, a number of respondents indicated that suspensions and exclusions are used for reasons beyond their intended use, including to provide teacher respite, to provide the teacher with an orderly learning environment (rather than engage in school-wide positive behaviour supports that would enable the teacher to achieve that for themselves), to get rid of a difficult parent, or to encourage parents to move the student to another school.

While most respondents indicated they were not aware of informal suspensions, exclusions or expulsions being used, some noted that informal processes do occur in some schools including internal suspensions that are not recorded and requests for parents to keep students at home, and other practices such as ‘time out’, take homes or ‘early departures’ are used and not recorded in school data. Respondents expressed concerns about the use of these practices, commenting that more systems and processes are required to ensure interventions and disciplinary responses are child focused. Some respondents also commented on the use of exclusionary practices such as encouraging students with disability not to attend some school activities such as camps or excursions, raising concerns regarding possible breaches of the *Disability Standards for Education*.

*Key suggestions for improvement from respondents included:*

- The SA Department for Education review current guidelines about appropriate disciplinary responses to different levels of behaviour to explicitly discourage the use of suspensions or exclusions for low level behaviours, and to ensure guidelines clearly state that suspension or exclusion are only supported as last resort disciplinary responses to more serious behaviours.
- Provide clear guidance with plain language and visual charts outlining possible behavioural consequences, including suspension and exclusion, across all schools.
- The SA Department for Education should consider providing clear guidelines that prohibit the inappropriate use of suspensions, exclusions and expulsions generally, as well as the use of informal exclusionary practices such as informal suspensions, take homes, and other practices, such as requesting a student be kept home.
- That consideration be given to further workforce investment to ensure all staff understand best practice for supporting students with disability and comply with obligations under the DSE.

## 5.9 BEHAVIOUR SUPPORT POLICIES AND STUDENT SUPPORT SERVICES

### Terms of Reference:

- *The effectiveness of behaviour support policies and student support services.*

Requirements to provide effective behaviour and student supports are established under the *1992 Disability Discrimination Act (Cth)* and the *Disability Standards for Education 2005 (Cth)* as well as in various Departmental policies and procedures, in particular the Behaviour Support Policy (SA Department for Education, 2019).

The stated purpose of the Behaviour Support Policy is to:

- ensure effective, consistent and fair behaviour support for children and young people across education, early childhood and care services in the department.
- assist children and young people to be safely included and participate in learning in a positive way that respects other students and staff.
- develop the personal and social capability of children and young people to understand and exercise their rights and responsibilities so that they are able to fully contribute in their learning environments, and to their wider community.

As noted above at 3.5.4, the Behaviour Support Policy requires behaviour support strategies to be directed at achieving seven core functions:


1. promote, model, and support productive and positive behaviour.
2. explicitly teach positive behaviour and expectations about behaviour.
3. intervene by using the least exclusionary methods to prevent, reduce or redirect behaviours of concern.
4. work with children, their families, professionals, and other key adults to understand the environmental, social, and family context of a child/young person's behaviours of concern, and to use the capacity of these parties to support positive behaviour change.
5. provide visible, fair, and equitable behavioural responses that foster confidence and trust.
6. repair and restore relationships that have been harmed by behaviours of concern.
7. establish safety and wellbeing for people involved in behavioural incidents, and others.

Further information about behaviour support obligations under international conventions, commonwealth legislation, and the SA Department for Education's policies and procedures is considered in Chapter 3.

### 5.9.1 Education staff feedback

Survey respondents were asked to comment on the effectiveness of current behaviour support policies and student support services. In relation to "how effective" these are, one respondent answered,

*"Not at all. Not even close. To even ask the question is borderline insulting to teachers who have to do this stuff off their own bat .... there a quite a few students who fall into this system, purely because they get "difficult" at times. They are shunted aside because we just cannot spend the time needed to cope with their particular foibles." (Teacher, survey response)*



One principal expressed frustration that they were unable to really support the underlying issues for the young person and felt powerless to enact long lasting change. Another educator expressed the concern that, as students progress each year without the requisite support and academic skills due to suspension and exclusion, this contributes to student anxiety, low self-efficacy/esteem, bullying, and avoidance behaviours, all of which create future behavioural issues. One wellbeing leader expressed concern about suspensions and exclusions as a default option.

“There are too many Principals that use [suspension and exclusion] as their go to without exploring other ways of supporting students to stay in school. Often these are self-perpetuating circles of a culture that has been generational, and these students and their children never break the cycle. We need to be doing better to meet these families’ needs.”  
(*Wellbeing leader, survey response*)

Educators spoke of barriers to providing effective behavioural supports, such as time constraints, staff expertise, access to specialist services, or reluctance by the student or their family to engage in supports offered. In their comments, some teachers requested training in how to intervene and prevent escalation, knowing when to ignore and when to take the opportunity as a teachable moment.

A broad range of education staff acknowledged the challenges they face when engaging families around student behaviour with some calling for parents to take greater responsibility. One stated,

“Some support is available however it is the responsibility of parents to set good boundaries and responsibilities at an early age so, when they enter the school system, they are aware of responsibility and reasonable behaviour. The system does not need improvement; parenting is where the problem is.” (*Other respondent (respondent type not disclosed), survey response*)

Some teachers expressed the desire for a zero-tolerance approach to student behaviour. A number cited high levels of teacher stress and burnout resulting from managing mobile phone issues, student bullying, the impacts of trauma on students, addressing complex behaviours of concern, and teaching students with disability, particularly students on the autism spectrum.

“Teachers are expected to put up with being hit, bitten, kicked, punched, have objects thrown at them, be attacked with weapons, be intimidated, verbally abused, and still teach! We... are expected to understand the barriers for learning for the suspended student and why they do what they do, recognise their triggers, and put in successful strategies.” (*Teacher, survey response*)

Respondents also spoke of the availability or accessibility of support services, particularly in regional and remote areas:

“More specialist help in psychologists, behavioural experts and therapists would be helpful in our rural setting as parents are unable to access these services locally or through Medicare.” (*Teacher, survey response*)

There was a call for external Speech Pathologists, Student Support Services, behaviour support coaches, and Aboriginal Services to be based in schools rather than offices because they are perceived as too disconnected from the reality of what happens in classrooms daily. Lengthy wait times for behaviour support coaches were repeatedly noted and there were calls for these



staff to be more widely available, particularly in rural and remote locations. One behaviour support coach suggested:

“When Student Support Services is involved there is generally more accountability for all stakeholders. When a site chooses not to engage SSS it is completely at the behest of the site leadership. SSS could and should be legislated to be involved in the exclusion process to ensure that Department for Education policies are followed. Data indicate that at risk students are overrepresented in SEE data. This could be reduced by developing the skills of staff at the coalface (e.g., teachers) by making MAPA, SMART and classroom management courses compulsory. Staff should also have cultural competency training.”  
(*Behaviour support coach, survey response*)

One behaviour support coach also suggested,

“I think that Behaviour support is being done well in schools ... What is creating issue here is the volume of students presenting with these issues as increase in the drug use of ICE has impacted significantly with abuse and neglect along with domestic violence in the home. I am not looking at the data however consideration is taken into account for those students who are at risk as going to any of those outcomes can put them further at risk as school is the safe place. Only way around that is to exclude back on to site.” (*Behaviour support coach, survey response*)

In Chapter 7, we analyse the actual data recorded by the SA Department for Education in relation to reasons for take homes, suspensions and exclusions, and note that while some students may come from homes where drugs such as ICE are used, the data suggests that students themselves are not bringing them to or using/selling them at school (see, for example, Sections 7.1.3, 7.3.4, 7.5.4).

The role of teacher training and availability of professional development to support staff to engage in quality teaching practice was a recurring theme in feedback to the Inquiry. The themes emerging from this feedback were very similar to those considered in the Select Committee Report (2017, p. 105-119) suggesting that while efforts may have been made to address these concerns, and some practices may have improved, it is not evident that these issues have been resolved at a practice level. Many respondents to this Inquiry spoke of the need to build more inclusive practices in teaching and supporting a collective understanding of why inclusive education practices are valuable to all students.

There were repeated calls, from a range of education staff, for increased teacher training on a wide range of topics including how to provide adjustments, as well as higher levels of SSO classroom level support. Additionally, training needs were identified in how childhood trauma, different sensory approaches, self-regulation, de-escalation, perfectionism, mental health, poverty, gender dysphoria, how intergenerational neglect affects children (particularly when these intersect), and how schools can be better supported and funded to respond to this. For instance, the following comment by one principal exemplifies some of these considerations,

“Children behave in ways which reflect an unmet need and all behaviour serves a purpose. I am yet to enforce a suspension, exclusion or expulsion on a student who is able to self-regulate, who is well supported at home and who does not have unmet needs. Of course, vulnerable and at-risk students are overrepresented. Children don’t choose to misbehave or trash a classroom for the fun of it. What could be done better is an understanding of how childhood trauma, poverty and intergenerational neglect affects children and how

schools can be better supported and funded to respond to this. There is no quick fix for this.” (*Principal, survey response*)

One SSO offered praise for the training provided by the department, but cautioned,

“I believe the department is trying to bring about change. We have a lot more PD re: behaviour issues. However, teachers are an opinionated lot who tend to have trouble finding a consensus. Often when something works the dept wants to change it to something else.” (*Student support officer, survey response*)

One staff member spoke during interview of the need to improve baseline quality teaching,

“...one of the issues is around inclusive education ... It is seen as peripheral because its seen as dealing with subsets of students in a segregated environment... we need to understand and build teacher practice around an understanding that accessible teaching is actually a benefit to everyone and should not be isolated to segregated or ‘special education’ type learning environments”. (*Emma, DfE Policy/Executive Officer*)

Another respondent acknowledged that teaching a class with multiple ability levels is more difficult than teaching ‘streamed’ classes based around a similar ability level, however teaching practice should still be built around promoting equitable access to the curriculum and opportunity for all students:

“...it’s about going back to basics ... understanding that often, not always, but often student behaviour arises from an inability for education to actually meet the needs of that child’s level of anxiety in relation to something that’s happened, and their result is fight or flight”. (*Eleanor, DfE Policy/Executive Officer*)

In addition to focusing teacher education on fundamentals of inclusive education principles, many respondents commented that there is a need to focus more on explicitly teaching around behaviour, building meaningful student-teacher relationships or partnerships in learning, and teacher modelling of appropriate and respectful behaviour.

“...one of the things that, as a state, we should be better at is explicit teaching of behaviour... relational behaviour needs to be taught in schools with staff and the students... If we model what we do with kids and do it with teachers, with adults, that really helps teachers to understand that. Like at staff meetings, if a teacher is late, tell them “get out” and they’d go “really?” and we would respond “yeah, get out you’re late” and you think what does that feel like on the receiving end?” Who likes to be told off? No one. But we do it to kids all the time. And we do it disrespectfully. If we model how teachers are behaving with kids, but do it to adults, suddenly they realise how inappropriate and disrespectful it can be.” (*Eleanor, DfE Policy/Executive Officer*)

“We tell kids “well don’t you understand? Why? You’re obviously not working hard enough”. We need to go back to basics. What does respect look like, and how do we explicitly teach it?” (*Helen, DfE Policy/Executive Officer*)

“...the quality of your teachers is what influences direct outcomes for education... the good thing about having a teacher that develops relationships with the kid is they can use their relationship to defuse a situation. But if you’re authoritarian you’ll never win, especially guardianship kids and disengaged kids... It’s all about relationships.” (*Albert, School Principal*)

Many respondents commented on the need to set and enforce behaviour expectations that are equal for all members of the school community, and apply equally to students and teachers, particularly in secondary education.

“Instead of rules, call them expectations, which should set expectations for appropriate behaviour of all members of the school community including teachers. But that’s very much dependent on who the leader is in the school or the leadership of the school.” (*Anna, DfE Policy/Executive Officer*)

Some school leaders also noted that while targeted training and professional development is critical to performance improvement within schools, school leaders face significant barriers to managing the performance of individual under-performing staff. School leaders spoke of being the subject of complaints from teaching staff after challenging staff on their performance and teaching practices, of teaching staff refusing to adopt or implement new classroom strategies, and generally having little authority and support from the SA Department for Education to performance manage under-performing staff. One respondent noted that “there’s a lot of this going on in South Australia”, and also suggested that “the unionised workforce has a lot to do with it” and the “union should be working towards building the esteem and performance of the profession, not tolerating under-performers” (*Scott, SA Department for Education Policy/Executive Officer*).

In the context of disciplinary practices, many respondents including students, parents and teaching staff commented that the trajectory towards exclusionary disciplinary responses depends largely on the presence (or rather absence) of positive, caring and respectful relationships between students and teaching staff, and staff modelling appropriate and respectful behaviours.

“It’s about building the ability of teachers to have those positive relationships and how you do that”. (*Emma, DfE Policy/Executive Officer*)

Some respondents raised concerns that some schools take an approach to behaviour management from a point of view that promotes the interests of school staff rather than being centred on the interests of students. Respondents commented:

“...there is this fundamental expectation that you care about every child in your class. And the child is in the centre of every decision, right? So, and that’s a cultural perspective because I can tell you when I’ve talked to principals and they, and you can actually feel it when you walk into a school that the decisions are made around the staff and they’re actually not made around the children.” (*Anna, DfE Policy/Executive Officer*)

“Some teachers take the authoritarian approach of ‘I’m the teacher, I make the rules, you just have to live with it.’ Student-teacher relationships should be built around mutual respect.” (*Helen, DfE Policy/Executive Officer*)

The following examples were also provided by respondents, who commented on the need to move beyond commitments on paper and ensure actual implementation of respectful relationships and equal expectations, and also alluded to the influence of Teachers Unions and staff culture in promoting the interests of teaching staff to the potential detriment of student interests:

“When I think about some high schools, and I think they shouldn’t have this many suspensions or exclusions... something is not right here... they think the kids are lazy, they think the kids don’t contribute, it’s the kid’s fault and it’s not the teacher’s fault. And the

union said it is unsafe, you've got to get rid of this kid.” (Eleanor, DfE Policy/Executive Officer)

“I've been working at that school and when I go in, I looked at their relational agreements, it's on this great big document. It says, we will respect each other ... and I hear that they've all worked together to get this. But, in fact, no one worked with the kids to actually get that happening. So, somehow all of the kids don't see it as real. And so, my job, is to work with that side, saying, your understanding of those agreements stay on that page right there in front of the office and go no further. Why is that so? It's just an example of where they thought they had that explicit teaching of relational learning and how we work with each other, they thought they'd done that, but it was just surface talk. And they do go to exclusions very easily because they've got a good union, they've got a powerful union that somehow feels that they can run the school. It's all about risk aversion”. (Helen, DfE Policy/Executive Officer)

“I owe the students the best teachers that we can get... you know there was one teacher we ended up with for two years who was constantly coming back to me saying things like “when's trauma going to stop being an excuse”... but they're gone and we're in a good position now that we're not union-heavy at the moment.” (Georgia, School Principal)

Survey respondents provided feedback on their access to professional learning in relation to legislation, policies and procedures related to suspension, exclusion, and expulsion. Opinions offered by principals were mixed, with some believing that appropriate supports were offered, but it was reliant on how school leaders chose to allocate or prioritise their professional learning budgets. Some education staff acknowledged that they were unaware of any professional learning on SEE policies and procedures. Several principals, assistant principals and teachers called for more professional learning on the effects of trauma and how to make adjustments for students with disability, while citing the need for additional resourcing to support these students.

Behaviour support coaches were unanimous that more training on SEE Procedures is needed, for school leaders (especially newly appointed principals and behaviour support coaches), teachers and SSO staff. One stated that,

“Too many leaders in schools do not have an understanding of the SEE process. This needs to be a requirement when staff are appointed to key roles in sites, including B1 leadership positions.” (Behaviour support coach, survey response)

Teachers provided more detailed responses in relation to this question, with the majority calling for more training. The areas of focus they felt should be improving principals' use of disciplinary measures, understanding student behaviour, and improving student wellbeing. Some felt that initial teacher education in these areas needed to be strengthened and commented on the variability of consultancy services in delivering quality professional learning. Additionally, some argued that training in legislation, policies and procedures should be mandated every three years. There was a call for regulated submissions learning developed by or for the Department that ensured consistent messages were available to all teachers across the State.

Several respondents acknowledged the challenge associated with implementing such training, including the huge cost to the Department for professional learning and teacher relief. The divide between metropolitan and rural principals surfaced again here with rural principals noting poor access to professional learning. During interview with representatives from

Many staff commented that many existing school systems, particularly secondary education, are too rigid and not flexible enough to meet the needs of all students. One respondent commented:

“Our schools are set up for a particular model of kid. It’s set up like an institution... a bit like a jail, once you come through you are going to be in here for good. First day in you got to know the rules. Except for secondary school they move from class to class and they have to abide by the rules in each class which might be different depending on the teacher. We expect that our kids somehow miraculously come from their homes, some of them quite dysfunctional, and will automatically know how to comply with the rules. They must be quiet and learn, and if not we be punitive about it, or ultimately our staff consider the kids to be unteachable.” (*Anna, DfE Policy/Executive Officer*).

As another respondent commented that, for secondary schools, the issue then becomes:

“...how do you have consistent firm boundaries when there are seven different sets of boundaries with seven different teachers?” (*Emma, DfE Policy/Executive Officer*)

Many respondents spoke of the need for a more structured systems approach to improving teaching practices. One aspect considered necessary by many respondents to such a systems approach was trauma awareness training. Many respondents noted that there has been a strong push to engage in this training, and that it has been useful for understanding basic concepts including impacts of trauma on the developing brain and how to adapt these ideas into responses to student behaviour. However, it was also noted that there is no whole-of-system approach to ensuring teacher practice is trauma-informed, and engagement in this training is consistent across school sites. Respondents commented:

“...so the first module was around developing relationships and actually understanding trauma. And the you know, the fight and flight scenarios, and actually practical strategies that the school can implement. It was impressive. So, I haven't done all four days, but I did do the first two. And the staff loved it. And they trialled it. So, it sort of... yeah, it needs a system approach. I do think that will reduce, probably lower levels of suspensions.” (*Georgia, School Principal*).

“People understanding student behaviour as communication is a decisive factor in the classroom... Berry Street training has given us the opportunity to really talk about not being the second-arrow. So, a child is elevated, and then, you know, you can make or break that situation. So, if you go in heavy-handed or yell or raise your voice ... then that’s going to compound the situation. We’ve done whatever we can as a whole staff around trauma informed practice. But it is hard you know to fit it in... we’ve just completed the second of four days of training...” (*Helen, DfE Policy/Executive Officer*).

Respondents also noted that engagement in this training is driven by the school leadership, with limited support from the regional level or encouragement from a systemic level, making it quite difficult to get staff involved in this training despite it being identified as being critical to teaching practice.

“... we’ve had to give up four of our pupil-free days for [Berry Street training] ... and then obviously we’ve had to find the money to fund that... and it was our leadership group that identified the need for this... We really had to negotiate to get this training, because schools have always had two pupil free days for several years, but it’s prescribed that they’re meant to be around the Australian curriculum. So to even get staff involved in the Berry Street training we had to sort of bend the rules to be able to do what we needed to

do here ... you've got to try and juggle doing all of the additional training which you know you need and then everything they're saying around improving literacy and numeracy... you've got to somehow make it all fit in..." (Georgia, School Principal).

Other respondents noted that while the trauma awareness training is important, this will not necessarily provide the fundamental knowledge to support engaging appropriately with all students, as not all students with behaviours of concern come from a trauma background. Many respondents suggested that what is needed is a systems approach to implementing positive behaviour support throughout the education system:

"... one of the massive gaps, in my view, coming into this role from being at school for a long time, is, there is no system that's about how we expect our schools to work with their kids and their communities with regards to behaviour. One of the things that I've found really interesting, Victoria, is that positive behaviour support, the whole school positive behaviour support process... because my sense is that we need, across our department, an expectation that all schools overtime will be trained in positive behaviour support. The trauma stuff is good and it builds on that, but one of the concerns I have about trauma informed practises is, it's built on an assumption that all kids come from trauma, and they don't... positive behaviour support is about functional, understanding the function of behaviour. Giving teachers the language to understand behaviour to communicate about it." (Anna, DfE Policy/Executive Officer).

"It is about explicit understanding and learning and teaching to staff in schools, starting with leadership, and then rolling out more broadly to schools." (Helen, DfE Policy/Executive Officer).

While some education staff commented on the value of incorporating Positive Behaviour for Learning models into teaching practices, many education staff consulted had not previously heard of this framework, reflecting a piecemeal approach to behaviour management across South Australian government schools.

Respondents also gave feedback about the use of interoception in schools, which involves supporting students to monitor how they are going, being conscious of their mental state and being able to manage their emotions. The feedback was mixed. Some respondents indicated that they had experienced schools that had used interoception rooms, with one saying they "...were incredible for students with disability". However, interoception rooms were also criticised as places for students to escape class, avoid work, or for them to access food, rewards or preferred activities.

Most teachers held the view that students were not being required to complete tasks in these spaces, there was no explicit teaching of appropriate behaviours, and there was limited consultation with teachers about what occurred, or needed to occur, in these rooms. For example, one respondent said they had "...been to really poor ones where the kids are just rolling around and not learning anything." Other respondents noted that the evidence-base for interoception is "a bit dodgy", and that this model tends to be focused on students with disabilities, whereas the explicit teaching of self-regulation should be for all students.

Respondents noted that the public education system in South Australia now has very explicit guidance to schools to support teachers to teach for improvement in literacy and numeracy, and suggested that there would be benefit in having a similar, very explicit systems approach to teaching and managing behaviour:

“Whole school positive behaviour support, we all agree is the system, this is what we are going after. We’ve [South Australian Department for Education] started running a very tight, very targeted improvement strategy that is focusing very explicitly on how do teachers teach for improvement in literacy, improvement in numeracy... it’s based on a really clear, um, system of planning around different stages of the improvement cycles ... what we have learned from that is that our schools love the explicitness and the direction ... it’s the explicitness of the direction that has allowed people to feel, ‘I know what to do now, I know what to say to my staff about this is how we are going to teach phonics. No, we’re not going to go over here with all this other stuff, we’re doing this according to the clear system wide strategy.”

We need to do the same thing, and we could do, because of what we’ve learnt about this literacy and numeracy strategy, we could do the same thing with behaviour. So, it’s not the random poor principal left out there going, “I’m going to do ‘x’”, while another principal is going, “I’m going to do ‘y’”. Instead the Education Director in the system is saying, “no we are going to do ‘z’”. And if we were doing this systemically, it means principals aren’t having to fight these fights in their own school. Because that wasn’t the experience of the improvement model for literacy and numeracy. Where there was unsettledness and stuff, [Education Directors] got in there and said, “this is what we are doing. I’m here, I’m at the staff meeting, I’m working with you to introduce this thing” ... everyone was doing it and it became a thing that reduced that issue for principals having to decide what to do without any support.” (Anna, DfE Policy/Executive Officer).

It was noted that in the absence of any such explicit training or structure around managing student behaviours, explicitly teaching students about behaviour and modelling positive behaviours, teachers are required to ‘self-learn’ these skills and there is an assumption that they can ‘miraculously’ do this because of their teaching qualification. Respondents commented that:

“...teaching is an incredibly hard job because you are interacting on a daily basis with a wide variety of young people, you are reading the emotional intelligence and responses of a range of young people from a range of backgrounds and somehow miraculously expected to know how to respond to every student well all the time, every day.” (Anna, DfE Policy/Executive Officer)

“Teachers have to learn disability, it’s a four-year, or more, period of explicit learning of what disabilities are and how they impact behaviours, and yet we ask our teachers somehow to understand that disability”. (Helen, DfE Policy/Executive Officer)

“There is a proactive rather than reactive distinction. Proactive de-escalation rather than reactive disciplinary responses. We need training in these ideas. Without explicit training, many teaching staff are going to be engaging more in reactive disciplinary responses because of the demanding nature of their role”. (Anna, DfE Policy/Executive Officer)

“... they can come up with frameworks, but in the end they just post it to you, sent to you electronically and then you don’t have the benefit of any of the training, so it’s left to everyone’s interpretation... or sometimes they might come in and say this is what we’re doing now but they haven’t really thought about where it fits in ... it’s just another framework added to the toolbox”. (Georgia, School Principal)

Education staff noted that this is where the value of an explicit, structured and cohesive systems approach to managing student behaviour, and that explicitly teaching and supporting

staff to manage student behaviour would add significant value to teaching practice and improved support for all students.

It was further noted that if such a system is developed, consideration needs to be given to ensuring the system is implemented with fidelity with strong leadership at the school and regional level.

“...it’s one thing to have a piece of paper that says this is how you should do it, but how do we make sure that schools are building that into their planning? How do we make sure that our professional development supports this?” (*Eleanor, DfE Policy/Executive Officer*)

Some respondents commented that one aspect of supporting effective implementation would involve looking at ways to improve the amount of time school staff are supported to dedicate to professional development and training.

“Honestly, the logical thing would be that we have more training days that we can close the school to do training. That would be the best thing for the kids and the most cost effective, so you’ve got the time to focus and learn it right before implementing it. But that’s not going to be a popular decision ... particularly for parents. But the reality is, every time you send staff to do training that you know you need, then there are whole days that they are not there with the kids anyway”. (*Georgia, School Principal*).

Several respondents expressed that too many students are being referred to behaviour student support services, and that better training in trauma-informed practice in all schools may reduce the referral rates. Similarly, there was a call from one teacher for Positive Behavioural Interventions and Supports to be implemented with consistency at a system-level.

“SWPBIS in a truly holistic and appropriately developed sense is also lacking at the vast majority of sites. This results in inconsistencies that exacerbate behaviours rather than support behavioural change through holistic supports ... Prevention is better than a cure. I believe any proposals should be based upon the effective and consistent implementation of SWPBIS programs.”

There was also a call for a stronger wellbeing focus in schools. For instance, the Wellbeing Classroom from SMG was a program that was recommended. Transition of students from primary to high school was noted as a time where additional resources and supports are essential.

Some respondents commented that there may be benefit in reconceptualising the role of behaviour coaches and school counsellors to support the implementation of a more structured, systems approach to managing student behaviour.

“We have behaviour coaches in regional offices... there is improvement to be made in the way that this resource is managed, and what it could be. I’m thinking a better way to use this resource would be the Victorian coaching model. These people are involved in suspensions or the development of a behaviour plan, and I’m telling you, the plan is not that hard to do because the plan is basically ‘I give you this plan, if you still don’t behave, well then, you’re out again. It is a paperweight plan... consideration needs to be given to how we are measuring the impact of this resource on teacher practice... if they were really having impact, there should be a reduction [in suspensions], but there doesn’t seem to be.” (*Helen, DfE Policy/Executive Officer*).



“...some sites still have school counsellors, and they have gone through to become a coordinator because they’re being really nice to kids, they are a nice lady and a good listener. I don’t think professionally as a system we’ve actually looked closely at counselling... schools need counsellors, primary schools need them too, but they are still ineffectual because of their inability, ...inexplicit nature of their understanding of what their work is, they are reactive and not proactive. They could be working more with schools as well to establish this Positive Behaviour for Learning, but they don’t know what they do. If you had them training in the Positive Behaviour for Learning, you could help to get more traction and a whole school approach.” (*Eleanor, DfE Policy/Executive Officer*).

Many education staff spoke of the new Inclusive Education Support Program (IESP) funding model. Most respondents considered that while the new model is a significant improvement in principle, there is still some concern and uncertainty around the process for seeking funding for individual students, particularly in sites with a high proportion of students with disabilities, and opportunities for improving efficiency in the process.

“... the intent is good, but for us, on the ground, it’s just created so much work. It’s work that you could be spending actually with children... this year and last year have been pretty hard around the reform around funding for students with disabilities. It’s put so much added pressure on a school like ours. It’s mind-boggling. I’ve had to put on another leadership position in that area, and we’ve ... a lot of our funding that we could be putting into proactive stuff has had to go into releasing people to do these OnePlans and IESP packages. So, it’s having a big impact on our school because of its complexity.” (*Georgia, School Principal*)

“...the goalposts keep moving, and I feel like we’re at the whim of whoever sits on a panel... I feel like my professional judgement should be trusted, if this child needs support, then they need support”. (*Andrew, School Principal*)

Respondents also commented on the costs that the new OnePlan and IESP planning process can have on a school and ultimately on students. One respondent identified that it would typically cost an estimated \$1,000 per student in school resources to commit time to developing the plans and seeking funding for the student, on top of the impacts on teaching and classrooms. Other school principals and staff also confirmed this estimated cost and suggested “...it might even be more” (*Andrew, School Principal*).

“Chasing the funding is having massive pressures ... we’re recognising the huge pressure on staff and their workload so we’re releasing them to give them time to do the planning work, but then that’s a Catch 22 because that means teachers out of the classroom, which has an impact on the student and the rest of the class”. (*Georgia, School Principal*)

“...it is onerous to say the very least... it’s like there is a lack of trust... it concerns me that we are basically using the funding to get funding rather than using the funding to actually support students with it”. (*Alex, School Leader*)

Education staff also spoke of the demand this new process is placing on teaching staff and impacts on staff wellbeing.

“I’ve had to experience teachers crying already this year. It’s a massive extra, so we’re really careful about not taking on anything we don’t need to”. (*Georgia, School Principal*)

Respondents also commented that this added pressure on staff makes it more difficult to commit staff to professional development opportunities, or to find time and funding to support

professional development opportunities such as Berry Street training. As a result, this is impacting teaching staff capacity to build practice skills to improve support to all students.

Education staff spoke of concerns that the complexity and workload involved in submitting the applications may result in some staff or schools not submitting applications, ultimately to the detriment of the student that the funding model is intended to serve.

“... sometimes, I think teachers don’t put them in, because it’s so hard. And then if you put them in, and you might file three times, and it keeps coming back and its really discouraging”. (*Andrew, School Principal*)

Some contended that the IESP funding is reactive rather than proactive and fails to value evidence supporting early intervention. Teachers noted that it can take a term before additional funding is approved and the resource allocations are supplied by the panel without direct dialogue between panel and school. As a result, funds provided are typically less than those requested. A further application may be made, but teachers noted they were advised that reassessment also risks the student's funding level being reduced. Some teachers argued resourcing should be higher in lower socioeconomic areas as there were higher rates of behaviour of concern and longer wait-times to access external behaviour programs.

These time constraints experienced were once again raised particularly regarding rural areas. For rural and remote schools, it was noted that in addition to the lengthy wait times commonly experienced, there is also the time cost associated with travel, for students to access medical, mental health, and allied health professionals. One respondent commented:

“Our Behaviour Coach is over-extended to meet the demands of the role and the distance she has to travel to be able to equitably share her time is impossible. The new IESP process to apply for support for students is overwhelming and exceptionally time consuming. The additional workload to apply for support has not been met with financial remuneration from the department. More Behaviour Support Coaches to be able to spend longer in sites to observe and offer practical strategies.” (*Wellbeing leader, survey response*)

Respondents also commented that as the OnePlan is now linked with applications for funding through IESP, there are concerns that

“...the OnePlan is now driven by the incentive of obtaining funding rather than focusing on providing support for learning to students”. (*Andrew, School Principal*)

Some respondents also raised concerns that the funding does not always follow the student if they change schools,

“We have a Day 6 census at the start of the year and in August. That’s when our numbers go to the department, and the money comes in. But we get all these enrolment inquiries from other schools after the Day 6 census, but we don’t get that money with them. And we ask the other schools and say can we have the money and we get back “oh, we have already spent it”. The money should follow the kid, but it doesn’t always... IESP money does... or at least it should. We are having to battle with [another school] to get that money, but [the student] came after the Day 6 census... for example a school may have already contracted some additional support, and they have to follow through and pay that contract if a student leaves ... It’s a systems issue that the money should follow automatically the enrolment.” (*Albert, School Principal*)

Several barriers were mentioned in relation to support services. Concern was expressed in relation to the paperwork required to access specialist staff such as psychologists and counsellors, with these personnel stretched beyond capacity. One assistant principal shared:

“Currently we have a very effective Behaviour Coach. Access to other support services, e.g., psychologists, Truancy, Special Educator is very limited and a frustrating process. We have 66% of students included on NCCD. Changing our general funding allocation would be an effective way to support our school. We have 30 GOM students from residential care who attract no extra funding but make big demands on our Human Resources. We have constant new enrolments, including GOM to manage. More responsive support services would help, clearly communicated due dates for IESP applications would help. How do you find IESP application forms? Buried in the website! To reduce the number of at-risk students, give us more access to places like Southern Learning Centre. It’s a good circuit breaker for students, gives them a different setting to re-establish appropriate behaviour and achieve small goals.” (*Assistant principal, survey response*)

Another respondent commented,

“...we use the psychologists from the department ... but that process can take months, so I’m actually considering employing a psychologist through the IESP funding to not only do assessments but also counselling for kids”. (*Albert, School Principal*)

Some respondents also lamented that funding simply was not available to provide supports to particularly students. For example, one respondent commented:

“Dyslexia is not funded so students in my class with this diagnosed condition can access a half an hour a week through the school finding. Thousands of dollars of support are used to monitor behavioural students.” (*Teacher, survey response*)

Respondents spoke very positively about the South Australian Aboriginal Secondary Training Academy (SAASTA) as promoting the educational engagement and achievement of Aboriginal students. As noted in Section 3.5.5, SAASTA is a program that provides Aboriginal high school students with a unique sporting and educational program in partnership with school leaders and local communities across South Australia. One education staff member noted that to remain eligible for the SAASTA program, there are quite strict key performance indicators (KPIs) around behaviour and attendance, including that the student maintain an attendance rate above 80 per cent. This staff member noted

“...the students see this as a big benefit... So, a student can’t just do their SAASTA subject and not do the other subjects. They have to be engaging in the other studies as well as SAASTA studies. So, you can’t just rock up to the footy programme on Thursday and not do your schoolwork here”. (*Fred, Policy/Executive officer*).

This respondent also noted though that because of the strict eligibility criteria for the program, other students at risk of disengagement may not be captured by the program,

“...the incentive program definitely does work, but because we are at that, the higher end of that ... there’s a lot of students obviously being missed out”. (*Fred, Policy/Executive officer*).

Respondents also noted that SAASTA is only available to secondary students in grades 10, 11 and 12, and suggested consideration should be given to expanding this program to younger students to capture students at risk of disengagement earlier.

Feedback in relation to the impacts of SAASTA on student engagement and achievement was resoundingly positive from all stakeholder groups. Feedback from other stakeholders including current and past students is considered below.

### 5.9.2 Current and past students

Students provided responses in the submissions survey to what they consider effective behaviour supports. One felt part-time attendance, small class sizes and psychological supports were necessary, and that suspension and exclusion should be last-resort strategies. Another felt school counsellors were effective, but overworked and difficult to access. Another student called for more support workers, counsellors, and staff trained to support students with disability.

Several students spoke of positive influences in their school experience that encouraged them to engage differently at school to avoid suspensions or exclusions from school. In particular, a number of students spoke of the positive influence that engagement in the SAASTA program has had on their engagement at school, keeping them motivated to avoid suspension or exclusion, particularly because of the relationships they have developed with other students and education staff through this program. Feedback from students about the SAASTA program was resoundingly positive and suggested that the program was having a positive impact on improving student engagement and reducing use of suspension or exclusion including for students with a history of suspensions and/or exclusions from school. One student spoke about how the SAASTA program was motivating a friend to remain engaged in learning, noting that while in the past he had been suspended and excluded,

“...they’re in SAASTA now, it’s a really good program, and can’t get suspended otherwise they lose all that, that’s really helped them”. (*Callan, grade 11, male, Aboriginal*)

In general, students commented that schools should manage behaviours at school (perhaps with in-school suspensions) rather than suspending or excluding the student from the school, except where someone has been physically injured in which case a one-day suspension may be warranted.

Past students felt that help and counselling should be available to families, and to children being abused at home. More training and funding for staff was also considered necessary. One felt disruptive students should be removed from class and offered intensive support. There was a call for behaviour to be investigated and for teachers to understand triggers and to actively listen to students. There was a view that instigators of bullying were frequently ignored, where the victim would sometimes be punished. Suspension and exclusion were, at times, viewed as a reward or an opportunity to escape. One past student called for smaller class sizes and in-school consequences such as lock ins at recess and lunch and removal of privileges as better alternatives to suspension and exclusion. In a final note on suspension, one commented,

“They don’t work. They have never worked ... It’s fundamentally flawed and addresses only a symptom of the school system’s underlying issues.” (*Student, survey response*)

A number of students spoke of the difficult home environment and relationships out of school that impacted on their behaviours, the impacts of past trauma and bullying at school, and a lack of appropriate support and intervention from school staff.

“I felt like I had built up a reputation as the bad one... like others were thinking “don’t hang with her because she’s only going to get you in trouble”. Even the teachers were

saying that too. It just made me feel like ... like you don't understand what I've been through and what people put me through and why I am the way that I am... even the teachers didn't understand". (Kelly, grade 11, female)

"I had friends at primary school, then my family moved, and I had to make friends again. Then my family moved again in year eight and I had to make new friends again... And I was finding that a bit hard in year eight, I was like sitting by myself... and I was getting bullied... so then I was like I'm just going to rub it in their faces, and maybe I'd get taken out of school... and eventually I called her a name and asked her to stop, but then I got an internal suspension". (Kris, grade 10, male)

"The bullying was continuous... two teachers literally stood right there as the kid came up, stood in my face for like ten seconds ... And they did nothing about it. And then they go and suspend me for it". (Samuel, grade 11, male)

"...nine times out of 10 teachers aren't going to do anything about [bullying]... and you can't just go and tell a teacher about it to get it to stop, because nine times out of 10 it'll get worse, because you're a snitch". (Brad, grade 11, male)

One student commented:

"...when I was in my first year of high school, I was being bullied by a girl who had been bullying me since primary and decided to continue with it into high school. I spoke with teachers and the principal ... I literally had two teachers say that I had to get strong and ignore it ... A few weeks after telling the teachers the bully followed me home and pulled a knife on me. The school did nothing and I was moved to a different school. I was beyond disgusted." (Past student, survey response)

Another student expressed concern that students who bully often seem to be allowed to continue with minimal or no consequences. They also complained that students are not believed when they report bullying, with staff responding, "...that doesn't happen here".

Students also reported that mutual respect between teachers and students has a significant impact on behaviour, the student's experience at school, and their willingness to comply with behaviour expectations.

"... my mum, like came up with this rule that she told me, like, it's just a common rule that everyone should follow, just 'give what you're given'. So, if someone is showing you respect, you obviously have to show respect back to them. But if you apply that rule, when someone's not showing respect, you don't really want to be inclined to show them respect." (Amber, grade 11, female, Aboriginal)

"In primary school I was not the best and got up and flipped my chair and walked off. One of my teachers and I became very close so whenever anything bad happened to me she would come and get me and we would just talk about what happened... or I could just say to the teacher that I'm going to the school counsellor and I'm going to do my work there and it isn't an issue". (Amanda, grade 11, female)

"...the teachers that are being like, kind of disrespectful, they wouldn't pay attention. And they wouldn't really care of what you're saying... but the teachers that are respectful, they listen to what you're saying, and treat you like a person. And if they treat you with respect, I'm more likely to do what they ask me to do you know." (Dash, grade 12, Aboriginal male)

Some students spoke of situations where their teachers just did not understand what was going on for them, and that small things would build up over time and they would suddenly snap because they did not feel supported in the classroom.

“...small things during the day would build up and up and the teacher says something and the kid just snaps. In my experience, I wasn’t the most level-headed in class... I’m trying to think about why I would snap or thrown things across the room. I think because I didn’t understand what was going on ... at school and things at home”. (*Declan, past student, male*)

Many students commented that they felt they were often suspended following incidents where they felt they had not been respected by teaching staff. Students commented:

“I used to get suspended a lot for, like, not following instructions. I was the kid that would like to do my own thing. I don’t really like getting told what to do. So, whenever the teacher told me what to do ... it didn’t process in my brain that I had to listen to that teacher and what they said. But growing up now I realise I don’t really get a say to what a teacher says to me. I don’t think that is how it should work, but that’s what I’ve learnt. It’s like, you have to listen to the teacher, but the teacher doesn’t have to listen to you.” (*Dash, grade 12, male, Aboriginal*)

“The other high school I went to, I got suspended two or three times within two terms, that was because the teacher was, like, it was kind of like a racial thing, I felt offended because she was being racist, then I would stand up for myself, and she would go and tell the other teachers that she didn’t say the racist comment, and then I had no evidence to back myself up.” (*Lexy, grade 10, female, Aboriginal*)

“When my confidentiality was breached, I would get angry and try to draw attention away from that by misbehaving. Once time a teacher came up to me within a group of people and said something about being in foster care, no one around me knew I was in care”. (*Lacie, past student, female*)

“I think teachers need training about how to engage with students. It’s like, if they don’t want to engage or build a relationship with you then you won’t engage with them, and you won’t do anything for them. It’s about respect... I’ve realised since I was excluded that I need to have teachers that I can have a good relationship with, so I’ll change teachers or classes at school so this can happen and it just works better”. (*Mathew, grade 11, male*)

Students provided suggestions about what schools could do better to support students and keep them engaged in school, and spoke about the importance of having a positive student-teacher relationship at least with one teacher that really believes in them and that they can trust to listen to them.

“I feel like a lot of support is the best thing. So, like, if a school is showing that they really want that kid to come to school, and the school is going to support them with whatever they want to do, and believes in them ... that’s the best thing they can do ... if there’s that one person that believes in you, if they say, like you can go far in your life, then, it just helps. It gives you so much more hope, and then will push you to come to school.” (*Dash, grade 12, male, Aboriginal*).

“If you have a good teacher, and something is going wrong, you can go to them whenever, and then sit down, and they’ll give you a laugh and then you’re just going on with your school day.” (*Amber, grade 11, female, Aboriginal*).

Students also suggested that perhaps teaching staff could be better at explicitly teaching students about how everyone comes from a different place, and sometimes other students have gone through a lot outside of school and how this can impact on them at school, and explicitly teaching how to be supportive and understand these impacts.

“Suspensions don’t solve the problem. I think they should maybe pull all the kids into one classroom and talk about it, like, make them have an understanding all as one about what things could be going on for someone else”. (*Lisa, grade 10, female*).

As final suggestions, one current student acknowledged that classrooms are places where students deserve to learn without disruption, but still called on schools to use suspensions as a last resort. Another current student called on schools to respond to bullying and gossip more seriously. A third current student called for an increase of full-time SSO staff in classrooms.

### 5.9.3 Parents and carers

Only 39 parents and carer respondents (28.1%) indicated that behavioural supports were put in place for their child or young person. The most commonly listed supports included SSO funding/hours, behavioural management plans or contracts, counselling, and various other strategies for supporting de-escalation or prevention of incidents. Five reported that these strategies were inconsistently maintained and implemented by schools or not appropriate for the student involved.

“They stated there would be assistance if he needed but it was never EVER followed through with.” (*Parent, survey response*)

“Yes, he was but it’s not consistent and I constantly have to remind the school and ask for supports” (*Parent, survey response*)

“So many. A lot which I have had to fight to be put in place. Always talked about in the meeting but nothing ever changes in class” (*Parent, survey response*)

“Some SSO support. However, most of the SSO support was used elsewhere to support him 'in other ways ' not directly for him.” (*Parent, survey response*)

“An SSO was appointed. Behaviour management plans, which were never followed so ineffectual.” (*Parent, survey response*)

“The school has undertaken support for him, this is not always consistent however” (*Parent, survey response*)

“He was provided with a behaviour management plan which he was asked to sign although he did not understand it completely and was unrealistic due to his condition” (*Parent of child with ASD, survey response*)

Most parent/carer respondents (71.9%) indicated that their child was not provided with any form of behavioural support to address the behaviours for which they were suspended or excluded (Figure 5.16). With respect to exclusion, most parent and carer respondents indicated that the student was not provided with any form of behavioural support (n = 27; 64.3%). Notably 14 of these 27 respondents (51.2%) indicated that the student had not been directed to a FLO (see Table 5.7), where alternative education and behavioural support should be provided to a student.

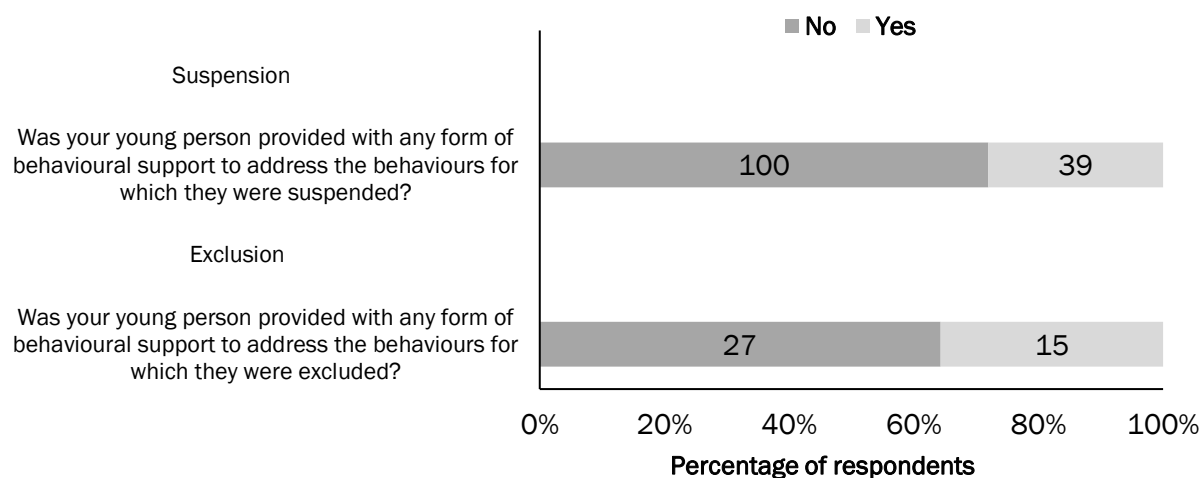


Figure 5.16. Behavioural supports provided to suspended and excluded students.

Table 5.7 depicts responses related to students who were directed to an alternative education setting and the provision of behavioural supports. Twenty-seven respondents stated that the student had not been provided with behavioural supports following an exclusion. Of the 21 students directed to a FLO or other alternative learning program, only eight were identified as having been provided with behavioural supports to address the behaviours for which they were excluded.


Table 5.7. Crossover of young people directed to alternative education and those provided with behavioural supports

		Provided with behavioural supports to address behaviours for which they were excluded	
		No	Yes
<b>Directed to an alternative education setting (e.g., FLO, behaviour centre)</b>	No	14 (33.3%)	7 (16.7%)
	Yes	13 (31.0%)	8 (19.0%)
<b>Total</b>		27	15

The submissions survey also invited parent and carer respondents to provide feedback in relation to the level and effectiveness of adjustments and supports provided to students with disability.

Figure 5.17 displays responses to items related to the provision of reasonable adjustments for the young person, self-reported by their parent or carer. Almost all (96.5%) of young people with a disability were reported to exhibit behaviours of concern, yet over half (53.7%) of the parents and carers reported that appropriate reasonable adjustments had not been consistently provided for their young person, despite the fact that all those parents and carers felt these kinds of adjustments would be beneficial in addressing the behaviours. As noted in Section 3.3.3, education providers are obligated under the *Disability Standards for Education 2005* (Cth.) to provide reasonable adjustments to students with disability.





A further 16.9% of parents or carers were unsure whether appropriate adjustments were being implemented. This is a breach of the *Disability Standards for Education 2005* (Cth.) which require that students with disability and/or their associate (in this case parent or carer) is consulted in the design and implementation of adjustments (Gillett-Swan, Tancredi & Graham, 2020). Parents and carers should also be consulted when adjustments are being claimed through NCCD (de Bruin et al., 2020). These requirements are clearly outlined on the NCCD website. It is also notable that of the remaining respondents whose young person *did* receive the consistent implementation of appropriate adjustments, two-thirds felt that these adjustments were able to address the behaviours of concern when consistently applied.

In summary, many parents and carers indicated that effective behaviour supports and adjustments for students with disability are not routinely provided to support their young person at school, suggesting there is need for significant improvement in inclusive practice, including strategies for providing appropriate behaviour supports, and in the provision of support and guidance to enable education staff to effectively implement these supports.

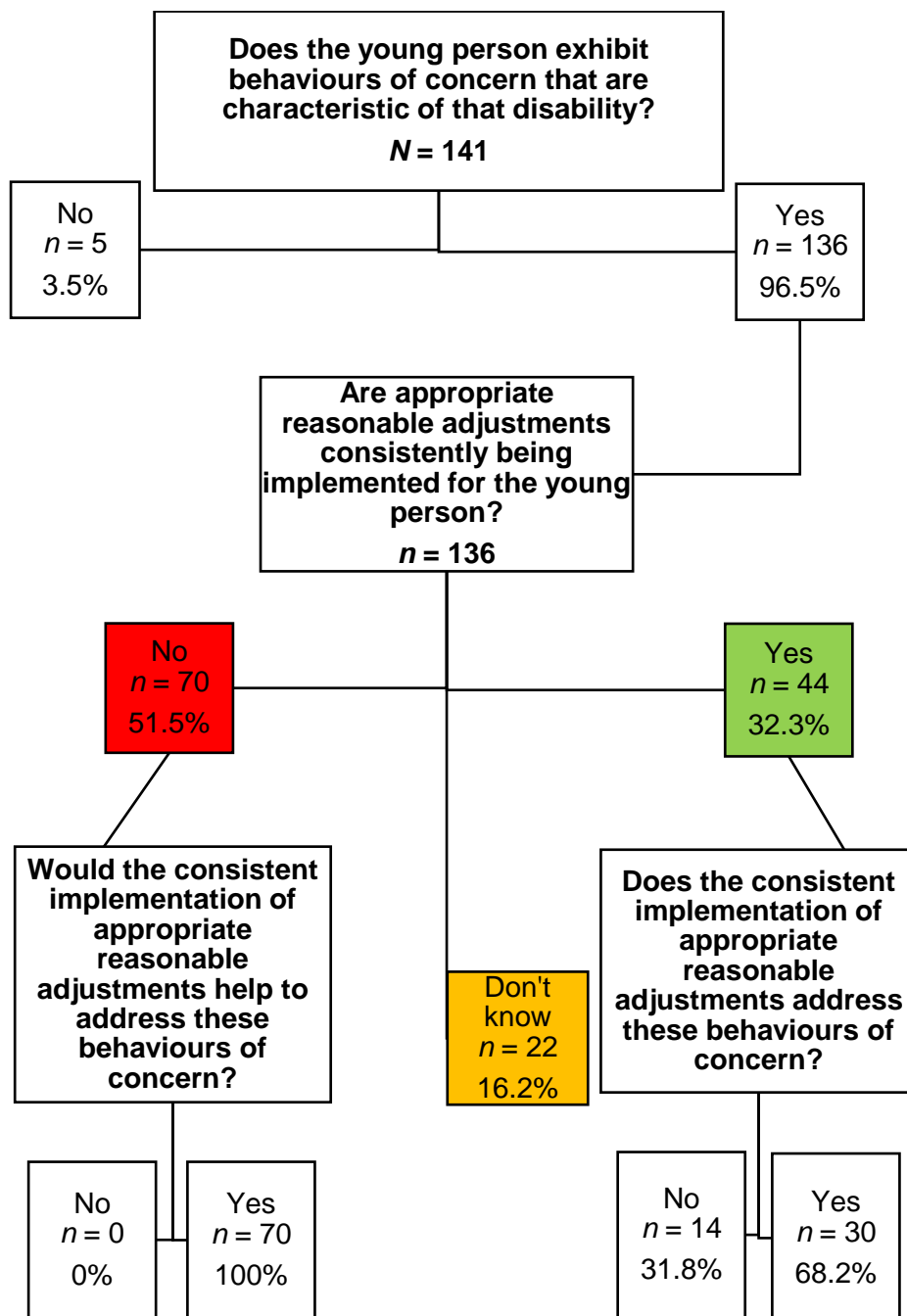


Figure 5.17. Provision of adjustments for young people with a disability

#### 5.9.4 Other stakeholders

Responses were received from two interested members of the public and seven respondents identifying as 'Other'. In relation to interventions and supports offered to students who are suspended or excluded from school, one respondent stated:

"I'm not convinced these are offered enough. I think there is a culture of 'giving up'". (*Other respondent (respondent type not disclosed), survey response*)

This respondent additionally commented in relation to the effectiveness of practices used in schools to manage behaviour:

"All schools should be more diverse. Inequity is built too deeply in the system and is growing. Some of the problems are exacerbated by a lack of diversity particularly in well-resourced schools with a high reputational capital which are the first to give up on a student. Yes, vulnerable or at-risk kids are definitely over-represented in them. Schools need qualified fully paid counsellors not just "chaplains" from lobby groups. Expert staff who can work with various types of vulnerable students in the school do a lot of good. Students need to be empowered and reassured not just controlled into something that they may perceive as a dead end or control game." (*Other respondent (respondent type not disclosed), survey response*)

One respondent expressed frustration with the lack of services, the variability of supports across schools, and punishments administered during break times impacting students' time to self-regulate. One commented,

"Nothing is being done. Anyone I have spoken to feels unempowered and that it's not their problem. But it's illegal! Children have only one right under the Education Act, and it's to attend school. Why are school staff breaking the law by sending them home?" (*NDIS service provider representative, survey response*)

Respondents also commented on the quality and availability of professional learning for school staff regarding the laws, policies and procedures related to suspensions, exclusions and expulsions.

One respondent, who was likely confusing the term expulsion with exclusion, commented:

"I get shocked by what people tell me about expulsions. There seem to be too many of them. Schools that expel a lot of students probably need to be investigated and potentially need better staff training, better resourcing, or the cohort to be spread better across all schools." (*Other respondent (respondent type not disclosed), survey response*)

Other government staff and interested members of the public also reiterated comments from education staff around the importance of supporting teaching staff to understand and implement inclusive education as a core component of teaching practice:

"...the teachers are so resistant to going and doing extra work on top of everything they already do ... you know, coz "we're so hard worked and we so don't have any time to do this extra stuff, and ... going and finding something to improve my knowledge" ... I feel like we're not starting off in the way that we should be. If we really believe in inclusive education, it has to be fundamentally a part of the way that we teach, not just a component of our teaching ... not just for people coming out of their undergraduates and deciding they want to go into inclusive education or special education as a special area... You have probably got fantastically equipped people coming out of that because it's their passion

and they've selected to go in there. Whereas that's not what we want. We want every teacher to have that." (*Rhiannon, Other government agency – Executive Officer*)

It was also noted that while it is important to ensure that the next generation of teaching staff are adequately educated about inclusive education and trauma-informed practice, this, in itself, is not enough to improve teaching practice:

"...governments are optimistic that the graduates are going to come out and somehow change everything. It's the other way around... because those supervising teachers while they're out on prac teach them to do things the way the supervising teacher tells them to... it's a very powerful shaping process". (*Rhiannon, Other government agency – Executive Officer*).

The same respondent also spoke of the broader, long term impacts the lack of inclusive education might have on society and the treatment of individuals with disability beyond school:

"...this is just so fundamental to our society ... discrimination in the community, in the workplace happens because we are not used to dealing with people with a disability... partly because they've never been around people with disability ... and this all starts from school, whether they've been in school with other kids with disability ... inclusive education affects everyone, it affects society... to me it seems like we would not have the problems we have in all these other areas if our schools could get this right and be inclusive." (*Rhiannon, Other government agency – Executive Officer*).

Many respondents noted that the implementation of trauma-informed practices in schools is critical to supporting many students to engage at school, particularly for students in care. Respondents consistently noted that while some schools do trauma-informed practice quite well, there are still many that do not. There is a lack of consistency and quality of practice in engaging with students with a background of trauma, but also some lack of understanding as to what a "normal" school environment should be.

"Foster carers around the area are talking about things they can do with schools to make them more trauma informed, some are but some aren't very trauma informed. There are many situations where young people in care aren't able to fit in, trauma is so much that they can't cope in the normal school environment." (*Justine, Other government agency*)

"From my experience, training for teachers around trauma, it's been a bit hit and miss ... some teachers are quite well-trained and it's been things that they've sorted out or educated themselves on. And particularly if they're having a young person that really has those high needs that they have in their classroom. But it just, it doesn't seem to be across the board or anything that is driven from the education department. It seems to be that the individual interest of the teacher to be able to- to want to learn and see things from a different perspective." (*Zora, Other government agency*).

"It's very leadership based from each individual site. So we've got one side within our region where the school are just not supportive of the SMART training at all. And that comes from the leadership of that side." (*Graham, Other government agency*).

Respondents also noted that the new OnePlan process also seems to be implemented in a piecemeal fashion that often does not lead to any significant improvement in practice for vulnerable young people.

“...my general experience with any of those plans, whether it's the IEP or the One Plan, is that they're so broad ranging and they are seen as a burdensome task on behalf of the schools. And the tracking from one plan to the next is rarely ever undertaken. So, I've never really seen major outcomes come from those plans being in place.” (*Graham, Other government agency*).

“...the intentions are really good. However, it does end up being a bit of a tick a box sort of a procedure where yes, they've talked about all these things, but in terms of our tracking between one OnePlan and the next, and then implementing things in a trauma informed way to support young people's learning, I wouldn't say there's a big uptake... And it might not be necessarily about a lack of interest or willingness, but maybe time and resources and supports to put in place those strategies.” (*Zora, Other government agency*).

Some respondents also expressed concerns about the accessibility of support services through individual funding, suggesting that while supports such as speech pathologists are available, they often only provide advisory support to schools to support funding applications rather than providing meaningful support directly to students.

Concerns were also raised that while the IESP model may help to ensure a student is provided with appropriate supports, this funding can then be reduced or removed once the student is performing well at school:

“...there have been issues where despite a student being well supported to engage with a certain level of funding, the funding is reduced because there is this perception that the student is doing well and the funding is no longer justified... and then the school either has to pull the funding from somewhere else or the student isn't supported any more”.  
(*Meredith, Other government agency*)

Finally, a number of respondents spoke very positively of the South Australian Aboriginal Secondary Training Academy (SAASTA) program, noting that it has had significant impact on improving education access and outcomes for many Aboriginal students. Respondents suggested that the program should be expanded to include younger students who are at risk of disengaging from school.

#### 5.9.5 Summary and stakeholder suggestions for improvement

A persistent theme in the responses from all stakeholder groups is that there needs to be increased training for school staff, increased resourcing, and better access to specialist supports such as psychologists, speech pathologists and other services to support schools to improve their practices in catering for diverse learners. Concern was expressed about the lack of resourcing, access to behavioural expertise, as well as staff training in proactively managing student behaviour, trauma-informed approaches, proactive active strategies to classroom management and de-escalation strategies, and creating inclusive and engaging learning environments.

Bullying was an area of particular concern for students, with many expressing the view that schools fail to respond to complaints regarding bullying, and that there are insufficient qualified counsellors available to support students experiencing bullying at school.

There were deeply concerning views expressed by some education staff that children who disrupt the learning of others were not worthy of additional resourcing. It was expressed by a small number of teachers that students with behaviours of concern, particularly those with disability, should not attend mainstream schools. This suggests a need for training in the

*Australian Professional Standards for Teachers*, as well as the relevant disability discrimination legislation. It also indicates that some teachers are not aware of the Department's *Behaviour Support Policy* and further, that some staff are unaware that all behaviour has a purpose and occurs within a context of which they have responsibility for managing both proactively and productively using evidence-based inclusive practices.

Many respondents including students and education staff considered the need to improve student-teacher relationships in schools. It was suggested that this could be improved by establishing clear standards for teaching staff (in relation to classroom management and interacting positively with students), improving staff training to encourage better teacher modelling of appropriate behaviours, and improving perceptions of mutual respect between students and education staff.


These stakeholder perspectives suggest the SA Department for Education has not effectively responded to recommendations from previous inquiries, including in the 2011 Cossey Report which found a need for increasing the knowledge and skills of teachers to support and respond to the needs of students with disabilities, and to support teachers to relate to and build positive relationships with students with disabilities.

Many respondents also expressed concerns about the new Inclusive Education Support Program (IESP) funding model. In particular, while respondents indicated an appreciation of the purpose of the new model, education staff expressed concerns about:

- The quantity and intensity of work required by education staff to complete an application that justifies the distribution of funding to provide necessary supports for students with disability.
- The resulting impact on staff wellbeing, particularly staff required to complete a significant number of funding applications in schools with a high proportion of students with disability.
- The added costs involved in completing funding applications (estimated at \$1,000 per student), as well as costs of removing teaching staff from classroom environments to complete applications and navigate the new process and reducing staff availability for professional development.
- That the intensity of the work required, and the complexity of the application process may result in some staff or schools not submitting applications, to the detriment of students with disability who depend on this funding for additional supports.

Feedback indicated that there was a strong perception amongst education staff that there would be significant value in streamlining the current process for seeking funding under the IESP model and processes for review of funding packages. Some respondents also raised concerns about funding not always following the student if they change schools, suggesting there may be value in exploring possibilities for improving existing investment and commissioning strategies for engaging specialist supports in schools to improve flexibility and continuity of funding for students across education sites.

Several respondents also expressed concerns about the efficacy of OnePlans for supporting student behaviours in school. Stakeholders commented that the new OnePlan process seems to be implemented inconsistently between students and schools, and that they are often not effectively implemented to provide meaningful supports for students. Concerns were also



expressed about whether OnePlans are reviewed and monitored to ensure they are effectively implemented.

Participants in the submissions survey identified possible changes to systemic arrangements, programs or processes that would benefit schools, teachers, students, and/or families in relation to the use of take homes, suspensions, exclusions, and expulsions. In addition to those already considered above, the following suggestions were offered by education staff based in schools:

- funding for proactive and preventative programs and professional learning for staff,
- increased time fractions for year-level co-ordinators to support students and manage behaviour,
- onsite counsellors with expertise in trauma based in schools as well as access to psychiatric expertise,
- access to supports tailored to the needs identified by each school or region to be determined by consultation and policy development
- more effective systemic responses across government agencies to the impacts of trauma on student behaviours
- improved communication between home and school particularly in response to minor behaviours of concern

A concluding reflection on the feedback from education staff is that the schools do not appear to have a clear strategic framework for how to manage behaviour. There are systems in place that are not being followed, and there are systems that do not appear to work. There are practices being used that are ineffective and there are evidence-based practices not being used. There appears to be, in some schools, a stronger focus on punitive rather than preventative practices. Overwhelmingly there was a sense by education staff that most schools are doing the best they can with the resourcing, knowledge and skills that they have, but to achieve better outcomes, resourcing could be used differently, and educators' knowledge and skills warrant urgent attention.

## 5.10 STUDENT DISENGAGEMENT

### Terms of Reference:

- The number of children of compulsory school age who have been disengaged from education, including through modified or other enrolment or different options, including home schooling. This should specifically consider the use of ‘take homes’, part-time programs, exemptions, home-schooling, and Open Access.

While the *Education and Children’s Services Act 2019* (SA) makes it compulsory for all students under compulsory school age to attend school full-time, exemptions to compulsory attendance requirements can be made in certain circumstances.

An *exemption* may be permanent to allow full-time employment, TAFE, or a traineeship or apprenticeship, or temporary for family travel or for health or medical reasons, or to allow home schooling.

Temporary exemptions may also be authorised to allow part-time attendance to support a student’s transition back to full-time attendance, for example where a medical or psychological problem makes full-time attendance at school detrimental to their wellbeing.

Importantly, the SA Department for Education Policy notes that part-time attendance arrangements are “not a process to legitimise non-attendance or truancy, and is only approved for genuine reasons which prevent full-time attendance, and only then with supporting evidence” (SA Department for Education, *Exemption from school procedure*, 2019, 9).

### 5.10.1 Part-time Programs, Exemptions and Home Schooling

#### 5.10.1.1 Education staff feedback

Respondents provided feedback in the submissions survey in relation to part-time arrangements, exemptions, and home-schooling, why these are being used, and whether there were systems to monitor the use of these options.

In general, principals and teachers reported mixed use and effectiveness of these practices. Some principals and teachers reported they do not use these practices as parents do not support their use. Conversely, some education staff reported that, as part of a planned strategy, part-time attendance had been particularly effective for children who have difficulty self-regulating, children with autism, students whose behaviour posed a risk to others, and for students with mental health conditions especially where part-time attendance was recommended by a child’s medical, mental health or allied health practitioner.

One school principal explained,

“We do send kids home when we have incidents because trying to reason with them when they’re in that heightened state of anxiety – because most of our kids come from a trauma background – is pointless. So, we say go home today and come back tomorrow and let’s talk about it”. (*Albert, School Principal*).

Where part-time attendance was reported, some school leaders indicated this was reviewed fortnightly by staff and parents, and typically led to the gradual full-time attendance of the student. One assistant principal was quite opposed to these alternative arrangements, stating,



“They are an easy fix. But don’t address the issue. Other options need to be looked into, including more supports for staff and students” (*Assistant principal, survey response*)

Behaviour support coaches generally shared the view that these practices, except for home-schooling, are useful. It could be inferred that these coaches would encourage schools to use these practices. One coach was of the view that:

“Exemptions/part-time programs are useful for inclusion. Schools can include a student for the amount of time that the student can cope with school. Some students can't cope with a full day. Then they get tired. Then they get stressed. Then they yell or assault staff or peers. Then peers get worried. Then peers don't want to play with them because young kids don't like unpredictability. Part-time programs can protect potential long-term friendships by allowing a child to attend for the period that they can cope with rather than attending full time and be unsuccessful. The argument that all the student needs is more adult support is false in a lot of cases. Home schooling should not be used for behaviour issues. The vast majority of behaviour problems stem from poor structures in the home. It is a complex issue.” (*Behaviour support coach, survey response*)

There was some acknowledgement from a behaviour support coach that these approaches had been used without appropriate documentation:

“An example is a site that had a Student in Care on a part-time timetable and had not completed the relevant paperwork.” (*Behaviour support coach, survey response*)

Some teachers and SSO staff expressed preference for part-time attendance of students with disability, at the same time revealing a lack of understanding of the difference between mainstream and inclusive education, as well as the legal human right of students with disability to an inclusive education and of their professional obligations to provide one through the use of universal design and reasonable adjustments. For example, one teacher stated part-time arrangements are used:

“Because some children are a danger to others, staff and students, they are that disruptive and violent they can't cope with mainstream schooling. When special school is not an option for these students, it is unfair to have a child screaming throughout the day or throwing random stuff in the room constantly taking away all the learning time from other students.” (*Teacher, survey response*)

One school also reported regular use of staged transitions for students re-entering school; meaning, for a period, the student would record only partial attendance. It was also reported that part-time attendance or home schooling are solutions used by some families where their child is being bullied or where the child feels unsafe at school. Interestingly, teachers criticised partial or part-time attendance when used for these reasons, due to their failure to address the root cause, and wanted a more preventative approach in schools to monitor bullying and school culture. Failure to address the root cause seems not to receive the same attention when it comes to the exclusion of students with disability through partial or part-time attendance, despite the known reinforcing effect of such practices.

One allied health professional noted that some students are recommended to start part-time but, instead of putting in place a plan to gradually increase attendance until full-time, some students with disability remain on a permanent path of part-time attendance.

It was perceived by some that these approaches may represent the most viable options for supporting a student and managing their behaviour depending on the availability of resources.

For instance, one principal noted that these approaches can be used as circuit-breakers, when other interventions had proved ineffective, and no additional resources were available. Similarly, some teachers and allied health professionals expressed that these approaches were mainly used when there was a lack of funding and resources. Concerns were noted particularly in relation to mental health supports available to schools and the wasted expenditure on pastoral care workers when trained social workers and psychologists were needed.

Throughout the comments by both principals and teachers, it was acknowledged repeatedly that the use of these practices is not monitored (to do so would increase workload expectations), and typically not reported by schools. As an example, one teacher noted,

“I don't know of anyone, above the school level, who monitors these types of arrangements. Besides, most of this stuff is done, unofficially, by the student's teachers. Or, if the school is involved, it's on "wink and a nod" basis.” (*Teacher, survey response*)

Notably several education staff also provided feedback that raised concerns around the impact of alternative learning programs including FLOs on student disengagement. These responses are considered above at 6.2.1.

#### 5.10.1.2 *Current and past students*

Both current students and one past student indicated that they had attended school part-time. Two thought this was necessary while they struggled with routines or a full school day (although one acknowledged that it was hard on their family), but the other felt they missed out on learning.

### 5.10.2 Flexible Learning Options (FLO)

#### 5.10.2.1 *Education staff*

Respondents also provided feedback on the effectiveness of alternative education options available to students, such as Flexible Learning Options (FLOs) and behaviour centres. Feedback on these programs was divided. One respondent commented:

“FLO can be positive for students who do not fit mainstream education for varying reasons. However, I feel the bar is often set too low for these students with an expectation of part-time attendance and sometimes only attending non-accredited courses.” (*Teacher, survey response*)

For each education staff member who felt that these alternative education options were successful, another commented on their failures. One allied health professional suggested:

“Centres I seen like this have been very positive for those involved because they see the child or youth holistically and individually. Might be nice to have a training program for teachers in preventive strategies provided by these skilled teachers.” (*Allied health professional, survey response*)

Some principals and teachers commented that some FLOs and behaviour centres provide an effective option as they can provide small group, explicit and scaffolded instruction to assist students to meet behavioural and learning goals, although the quality across these settings is viewed as variable. The effectiveness of students in transitioning these skills back into their school was also viewed as variable, with the need for better graduated and supported re-entry to school. This view was supported by some teachers who expressed concern that it was difficult for students to return from alternative learning environments back into mainstream schools as

the expectations were vastly different, and academically the student typically falls further behind while at the alternative program.

Most principals, and many teachers, were of the view that there needed to be *other* schools for students with behaviours of concern to attend. These respondents called for more segregated special schools for children with disability, especially those on the autism spectrum, citing a belief that the rights of students without disability trump the rights of children with disability to an inclusive education. One assistant principal stated,

“There are insufficient places in behaviour centres and the placements are not long enough to create sustainable skill development. They are not reflective of what the student will be returning to and so any gains are rarely transferred back to the home school. There needs to be a review of this system.” (*Assistant principal, survey response*)

To address the limited number of centres, it was suggested that alternative education centres should be replaced by in-school programs, staffed by qualified behaviour experts, to help students learn successfully within their home school environment. This was considered especially important in the early and primary years to ensure students attain appropriate literacy levels to help them learn successfully in secondary. There was a view that behaviour exhibited at secondary school was often a mask for literacy difficulties. Finally, some educators perceived that families were resistant to their child attending FLO, and that there was a lack of support available to families, particularly those who had experienced trauma.

Behaviour support coaches were able to offer some unique insights, particularly in relation to the amount of contact students have when attending a FLO. Where students had access for 25 hours per week, with strong links to a school site, coaches felt these programs were able to successfully re-engage students back into mainstream. But there were repeated concerns that students were accessing very limited hours while attending FLOs and that demand exceeds capacity particularly for young students. One respondent stated,

“FLO can be an effective support service for students, however at times students have very little face to face time, as little as one hour per week. I have seen examples where FLO students have achieved SACE but cannot meet SEA for literacy and numeracy. FLO can be used as a “dumping ground” for students with behaviour issues before sites have actually tried to implement plans, etc. Behaviour centres are effective tools for sites to use, however spots are very limited and the timeframe of ten weeks maximum for an exclusion is often not long enough to make meaningful changes.” (*Behaviour support coach, survey response*)

Accessibility and resourcing of these alternative education options was also queried in several comments, especially in relation to demand and location. Educators from metropolitan schools asserted that there were not enough places available at these alternative programs, meaning schools needed to prioritise students for access. One assistant principal alleged:

“Our FLO is very successful but so under resourced in terms of space - 100 students accessing one room. Attention by teacher, AET, case managers has helped many to find a way forward, especially those with anxiety, mental health issues, some behaviour issues. Offering part time programs and access to alternative courses, tailored to their needs has worked well. What could be done better is more flexibility in when we can have students enter FLO. Students don’t always conveniently present as needing FLO before Day 6 census. We have a careful process to identify these students in terms 3 & 4 but frustrated that some will leave and find work. We can’t use those free spaces and are stuck with

managing students at our site who are struggling with mainstream classes.” (*Assistant principal, survey response*)

Small rural schools saw these alternative education programs as irrelevant as they cannot access them and would prefer workforce investment in trained and experienced behavioural support coaches to support students with complex behaviour. As a result, rural teachers indicated students with behaviours of concern were likely to be attending part-time on repeated suspensions and take homes or spending large amounts of learning time outside the classroom.

Several respondents spoke strongly against the use of alternative education programs arguing that they do nothing to build the capabilities of staff in the school where the child will return after the exclusion period. A principal stated,

“FLO is not a great option; it is in effect a pathway out of formal education.” (*Principal, survey response*)

A teacher also criticised the lack of rigour of alternative programs, as well as lack of student engagement while at these locations. Some allied health professionals also suggested the money invested in FLOs could be better invested. One respondent also raised concerns about the overuse of FLO for Aboriginal students,

“I have a huge problem with FLO because a lot of schools will go, ‘our Aboriginal kids let’s just FLO them’” (*Principal, survey response*)

Finally, there was a worrying theme in the responses of a small number of teachers, wherein it was strongly advocated that resourcing should not be expended on students who choose to misbehave or who take pleasure in disrupting learning. By way of example, one former teacher now working in higher education stated:

“Most suspended students are suspended because their attitude and behaviour make it difficult for me to imagine that they would accept any type of help from anyone. Please don’t imagine that Government schools have the resources to create new learning classes to cope with these students. Most are only running because most teachers do far more work than they are hired or payed to do. And if you have extra resources to throw at this problem, there are many MUCH more deserving places to allocate it.” (*Former teacher, survey response*)

Behaviour was repeatedly referred to as a choice, with children choosing to disrupt. This belief is exemplified in this survey submission:

“For whatever reason, there are always students who will delight in disrupting a class. In my opinion, FLO’s and behaviour centres should be used to benefit the members of the class who want to learn. Consistently disruptive students need to a/ learn that poor behaviour has serious consequences b/ they do not have the right to interfere with other student’s learning and c/ that if they do not pass enough of the core subjects (English, Maths, Science and SOSE) they will need to repeat the year. Too many students I have seen over the years believe they will be automatically promoted, so they really don’t need to do anything, like their work, assignments study for tests, etc. They and their parents need to get the message right at the start of the school year from the Minister of Education if they don’t pass a certain number of the core important subjects, they will repeat the year.” (*Teacher, survey response*)

Inherent in these comments is the notion of a scale of deservedness for supports, such that children with complex behavioural needs are viewed as less deserving. Alternative programs were viewed to be appropriate only for those students who demonstrated that they wanted to learn. One teacher suggested:

“Schools shouldn't be forced to tolerate abusive, violent, or disruptive behaviour regardless of the individual student's circumstance. All schools should be supported to tolerate the same level of expectations from its students. If students cannot or unwilling to adhere to basic behaviour expectations, funding should be provided to support these students and schools to do so.” (Teacher, survey response)

One senior staff member with leadership responsibilities in a large low-socioeconomic secondary school maintained that there is a lack of accountability across the system, enabling principals to “...*manipulate and change data*” to escape scrutiny from central office. This staff member explained how Tier 2 supplementary funding for Aboriginal learners and students with disability was siphoned away from FLO and the Alternative Learning Program (ALP) to provide more leadership staff for the mainstream. According to this staff member, this practice made it next to impossible to support the learning of the students who had been “FLO'd” and who needed it most.

“As soon as you FLO a student you actually escalate their disconnection from school. You were given these kids, but you weren't given the resources to meet their needs”. (Teacher, survey response)

As an example, he spoke of one of his students who is entitled to about \$30,000 support (an Aboriginal student with an intellectual disability who was living in care) but only a fraction of it was coming through to support her learning, attendance and behaviour in the FLO/ALP section of the school. Instead, he alleged that it and the funding for other high-needs students was being used to “prop up” the mainstream and students in FLO/ALP are “*left in the backcorner asbestos with me*”. This allegation requires urgent investigation.

#### 5.10.2.2 Current and past students

Most students expressed greater concern about suspensions and exclusions causing student disengagement, and spoke of losing friends to these procedures, including through enrolment in FLOs.

“Two of my good mates from primary school, they've been chucked in FLO this year. One's gone real chubby now. And the other one just stays home and plays games. Both of them just stay home and play games, and just... they've gone real lazy. Real, real lazy. And they use to come to school every day and they use to actually be motivated and stuff. The school just needs to talk more to them and just think “this is the best way for you”.” (Max, grade 11, male).

“...there are a lot of students in FLO that don't actually come to school every day... They're like home-schooled almost, but then they've got case managers and that, they've got home visits and that ... but they're the people that, you know, usually don't really wanna come to school every day... I don't think it's helping them, you know, just staying at home all the time...” (Kody, grade 11, male).

As noted above at 6.2.2, many student respondents expressed significant concern that suspensions and exclusions often do not work, as many students view these procedures as a way of avoiding schoolwork. Most students who had been excluded also spoke of a lack of

support during the exclusion period, and lack of access to any continuing education during the exclusion period, reinforcing concerns about disengagement due to suspension and exclusion processes.

### 5.10.2.3 Other stakeholders

A number of other respondents raised concerns that FLOs effectively contribute to the segregation of at-risk students.

“What we have at the moment is one in 10 students in year 12 are in FLO. So, if you take the definition of FLO is that these young people are disengaged from school, that they have barriers to schooling, we’re saying that 10% of our year 12 students are disengaged from school. That’s an indictment on the school and the system”. (*Jordan, Academic*)

This respondent also raised concerns around how reliance on FLO programs may be impacting expertise of mainstream staff to make adjustments to support inclusive education:

“Because one of the things that’s happened is you move these kids off to FLO, that expertise of actually adjusting the curriculum around the student is getting lost. There’s two things that happen, it relieves the schools of the pressure to need to do something about [disengagement]. If you know that you can within the rules move the problem to be somebody else’s problem, and you don’t have to deal with it in the school, you have no incentive to do something about it... When FLO came along, those students no longer had to be in school. They were given the free pass to get out, permission to not have to work on engagement.” (*Jordan, Academic*)

Some respondents also commented that FLO programs provide an avenue for schools to improve performance and attendance/retention data by removing these students from the data cohort:

“...it’s a...way of taking [a large number] of kids out of the school system so that their attendance, their achievement data doesn’t actually go into the general population of students and data...or they might be attending school 3% of the time, and they’ll say they’re engaged if they’re there for 3% of the time...it’s pretty loose”. (*Matthew, Public – not for profit sector*)

“FLO students are included in retention rates so that increases retention rates. But the way that our SACE completion is measured is basically the students who get to October with enough points to finish in November are counted. So what happens is if you take these students out of that race, they increase your retention but also completion because they are not counted in that part of it. ... it’s that idea for principals of not only being the good principal but also creating the good school, so you actually take the kids that are going to be a problem out”. (*Jordan, Academic*)

One respondent went on to comment that despite the above concerns, evaluations of FLO programs often depict FLO programs as providing significant benefit to student outcomes but fail to robustly evaluate student attendance and education achievement:

“They measure their success by saying ‘oh, this is good for these kids’, but there is no statistics that say, this is what the changes mean... its always two things, the anecdotal feedback that this is good, and then a story about the individual successful kid. This makes a success out of it, which is good for those programs, but what our concern has been is the educative value”. (*Jordan, Academic*)


It was further noted by one respondent that because data about retention and attendance rates, and educational achievement for students enrolled in FLOs is largely inaccessible, there has been a lack of robust analysis of how FLO programs are impacting on the rights and interests of students. While it was acknowledged that FLO has benefited some students, there was concern that there is a lack of accountability in decision-making about student enrolment in FLO, and how FLO enrolment and achievement is monitored to support students' return to the school environment rather than entrenching their segregation and disengagement.

### 5.10.3 Summary and stakeholder suggestions for improvement

Respondents had mixed views about the use of modified enrolment or attendance arrangements such as take homes, part-time programs, exemptions, home-schooling. It was widely acknowledged that these strategies are used in many schools, with most feedback focusing on the use of take homes and part-time attendance arrangements. Some suggested that part-time attendance strategies are effective for supporting students with complex learning profiles to transition into a mainstream schooling environment, or to support students who have experienced bullying or who feel unsafe at school. Some students who had experienced part-time attendance shared this view. However, several respondents raised concerns that these strategies can be misused leading to student disengagement and missed learning opportunities. This may result from a lack of appropriate recording and monitoring of part-time attendance plans, leading to some students remaining on part-time attendance plans for an extended period with limited or no progress or increased attendance.

Take homes were perceived by some education staff as a useful strategy following incidents in which students had become elevated or agitated, or following incidents of aggression or frustration, to allow students time to reflect and self-regulate. It was claimed that take homes were being used to avoid more serious disciplinary responses such as suspension or exclusion. However, parent and carer feedback noted significant concerns regarding the misuse of take homes, including them being used too frequently and use of take homes that extend beyond a single school day. Several stakeholders also expressed concerns that take homes may be used too readily, as an easy option, in situations where the student could have otherwise been supported to de-escalate and re-engage with appropriate, targeted support at school. These concerns remained prevalent despite the SA Department for Education having received recommendations from recent inquiries, including the 2017 Select Committee Report, that schools should accept their responsibility, whenever possible, to 'see out the day' if it has accepted the student at the beginning of the day, and to ensure that exclusionary practices are used only as a last resort. Notably several stakeholders also raised concerns about the impact take homes and part-time arrangements can have on parents and carers due to increased carer responsibilities while the student is at home. These impacts were not commonly acknowledged by education staff.

It was commonly noted in respondent feedback that the use of these practices is not effectively monitored or recorded in school data, and the lack of regulation (including clear policy and procedure) in relation to the use of these practices means that there is significant potential for the misuse of these procedures resulting in reduced engagement in schooling or risk of compounding issues that may lead to student disengagement. It was suggested that there may be value in reviewing any existing policy and procedures around the use of take homes and part-time arrangements to clarify the circumstances in which these practices may be justified,



including clarity that these strategies may not be used in instead of interventions that support the student's full-time engagement in an inclusive learning environment, the need for consideration of the impact on student engagement and learning opportunities, considerations regarding impacts on parent and carer circumstances, and effective monitoring and reporting requirements to ensure these strategies remain fit for purpose and targeted at supporting the student's return to an inclusive learning environment. Evidently there remain significant concerns about the oversight of use of part-time arrangements despite recommendations from previous inquiries such as the 2016 Nyland Report that the SA Department for Education should regularly audit part-time arrangements for students in care to ensure they have plans to re-engage them full-time in mainstream education.

A recurring theme in respondent feedback was that these strategies may be overused due to a lack of funding or resources, or limited availability of suitable behaviour and specialist supports. Feedback reinforced suggestions noted above that there is need for improving the availability of funding, resources and behaviour supports in schools, particularly in remote or regional areas to support effective inclusion of all students, and to reduce reliance on strategies such as take homes and part-time arrangements that risk student disengagement.



## 6 PREVALENCE AND USE OF TAKE HOMES, SUSPENSIONS AND EXCLUSIONS

### Terms of Reference:

- the prevalence and use of formal and informal suspensions, exclusions and expulsions.

In this chapter, we analyse publicly available data to compare suspension and exclusion rates nationally. We then investigate the prevalence and use of take homes, suspensions and exclusions in South Australian government schools, examining patterns (i) over time, (ii) by year level (R-12), (iii) school phase (primary vs secondary), (iv) in primary and secondary 'other' settings, and (v) in Flexible Learning Options (FLO). As there have been fewer than seven expulsions recorded since 2007, expulsions data have not been analysed. Note that from Section 6.2 onwards, all data was sourced from the SA Department for Education Data Unit.

### 6.1 NATIONAL COMPARISON OF TAKE HOME, SUSPENSION, EXCLUSION AND EXPULSION RATES

Table 6.1 displays exclusionary discipline response categories according to different state government school sectors, including the length of time permitted for respective permissible periods. Where data have been made publicly available, we also include prevalence rates for each category of disciplinary action, based on data from the year 2018 as this was the most recent year for which most data was publicly available across jurisdictions. We note that the team could locate no publicly available data on suspensions or exclusions from non-government school sectors. As such all comparisons are of government school sectors, where possible.

Some state government sectors record the number of students receiving at least one disciplinary action during a calendar year (e.g., Northern Territory); some record the total number of incidents for that category, with students potentially being counted more than once (e.g., Queensland); and others record both types of data (e.g., South Australia).

Therefore, to enable comparison, we include both the **student rate per 1000 students** (i.e., the number of students receiving at least one disciplinary action within that category in 2018), as well as the **incident rate per 1000 students** (i.e., the total number of incidents per 1000 students in that calendar year). Student rates per 1000 students are indicated in blue text, while incidence rates are in red.

This table highlights a distinct lack of consistency across state education sectors making it extremely difficult to draw comparisons nationally or even to compare one sector with another. The closest comparison point for SA suspensions is the NSW short suspensions category, however, even these are not directly comparable given that SA suspensions are 1-5 days and NSW short suspensions are 1-4 days. This—in part—explains SA's much higher rate of suspension incidents per 1000 students. The other mitigating factor is that NSW also has long suspensions of 5-20 days with 21.58 incidents per 1000 students, which splits their suspension rate. Once short and long suspensions are combined the NSW rate far outstrips the SA rate. Again, however, these are not comparable due to SA's unique exclusions category.

Four sectors have a combination of suspension lengths that together total 20 days: QLD, NSW, ACT and the Northern Territory. Three of those sectors publish the total number of suspension incidents per category of suspension length, making it possible to combine categories and compare across those three sectors: QLD, NSW, and the ACT. This analysis shows that QLD has by far the highest suspension rate per 1000 students of all three sectors, 1.72 times that of NSW and 2.59 times that of the ACT.

Table 6.1. Permissible lengths of take homes, suspensions, exclusions, and expulsions across state government school sectors

	SA	QLD	NSW	VIC	TAS	WA	ACT	NT
<b>Take homes</b>	Rest of (1) school day	-	-	-	-	-	-	-
<b>Suspension (Short)</b>	1-5 days	1-10 days <b>144.58</b>	1-4 days <b>66.04</b>	1-5 days	Up to 2 weeks <b>52.00</b>	0.5-10 days <b>46.32</b>	Up to 20 days <b>26.92</b> <b>58.05</b>	Up to 20 days <b>36.39</b>
<b>Suspension (Long)</b>	<b>57.83</b> <b>114.36</b>	11-20 days <b>5.78</b>	5-20 days <b>21.58</b>					
<b>Combined</b>		<b>150.37</b>	<b>87.62</b>					
<b>Exclusion</b>	4-10 weeks <b>4.90</b> <b>5.44</b>	Up to 1 year, or permanently	Indefinite – no period prescribed	Indefinite – no period prescribed	More than 2 weeks (no upper limit prescribed)	Indefinite – no period prescribed	Indefinite – no period prescribed	Indefinite (only where student is charged)
<b>Expulsion (individual school)</b>	6-18 consecutive months				Indefinite – no period prescribed			
<b>Expulsion (all schools)</b>	12 months to 5 years				<b>3.22</b>			
						<b>0.08</b>		

Note. Student rate per 1000 students indicated in blue, incident rate per 1000 students indicated in red, during 2018 (where data are publicly available)

No sector publishes fully disaggregated data. Queensland provides the most in relation to individual schools, reason and Indigenous/non-Indigenous students, however it is impossible to determine from these data how many suspensions are single and how many are repeat or for how many days they occurred (e.g., whether the bulk of suspensions being issued within a length category are towards the minimum or maximum permissible).

New South Wales provides a brief explanation within their statistical bulletin for Aboriginal students who, in 2019, accounted for approximately 8% of all government school enrolments.

According to published data (NSW CESE, 2019), 13.2% of Aboriginal students received a short suspension and 6.1% received a long suspension. In years 7-10, however, 24.6% of Aboriginal students received a short suspension and 13.6% received a long suspension, suggesting that their overrepresentation fluctuates across year levels. Year level enrolment data is not provided to test whether their suspension rate declines with school attrition in secondary school and it was beyond the scope of this Inquiry to investigate this further.

No sector publishes data disaggregated for disability. However, in 2019 the NSW Department of Education provided data to the Sydney Morning Herald (Baker, 2019) showing that students with disability are overrepresented in suspensions with 42.6% of students who received suspensions also recorded as receiving adjustments under the Nationally Consistent Collection of Data on School Students with Disability (NCCD).

NSW Greens MP David Shoebridge (2020) also recently analysed data from the NSW Department of Education which he obtained via Freedom Of Information (FOI). His media release indicated that students with disability are overrepresented in NSW government school suspensions, particularly in primary school (Figure 6.1). According to these data, 77.9% of students suspended in Key Stage 1 (incorporating Years 1 and 2 of primary school) had a disability.

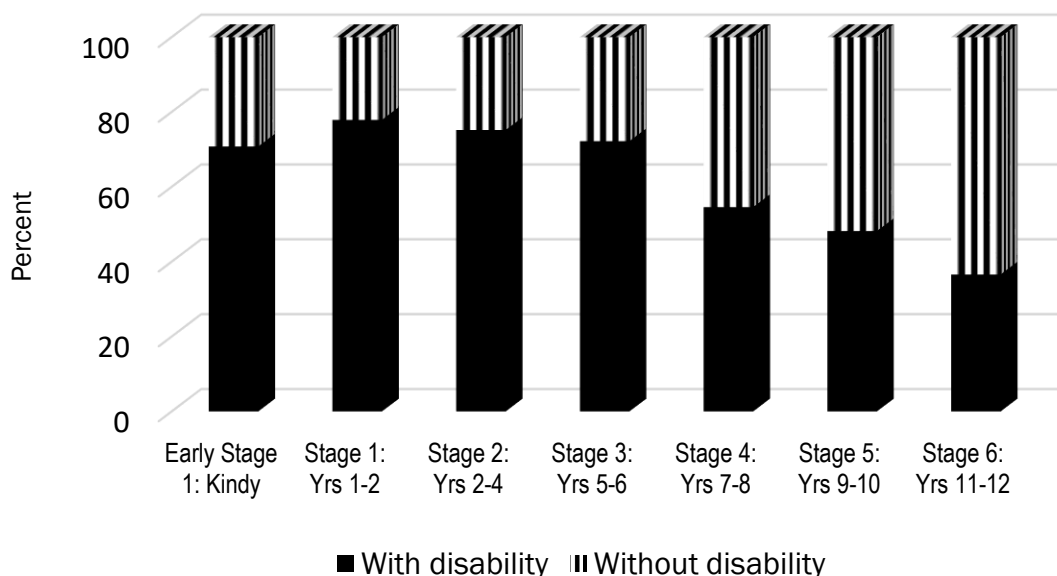


Figure 6.1. Suspensions of students with a disability versus students without disability across key stages, 2019 (Data source: Media Release Greens MP David Shoebridge, 31<sup>st</sup> July 2020)

Although this percentage declines from Stage 2 onwards, a decline in suspensions does not necessarily mean that fewer students with disability in NSW government schools are being suspended in the later years of school. Instead, it may mean they are *no longer attending school* (as in they have left school, commenced home schooling or transferred systems) or they may be in a “satellite” setting which they may also not be attending.

## 6.2 TRENDS IN PREVALENCE OF TAKE HOMES, SUSPENSIONS, AND EXCLUSIONS IN SA OVER TIME

Enrolments in South Australian government schools increased by 4.7% between 2010 and 2019, rising from 169,324 students to 177,246 students over time (Figure 6.2). During the same 10-year period, take homes increased by 59.5%, rising from 9,691 in 2010 to 15,460 in 2019. Suspensions declined by 11.0%, falling from 22,831 total incidents to 20,328. Exclusions also declined from 1,065 total incidents to 979, a decrease of 8.1%.

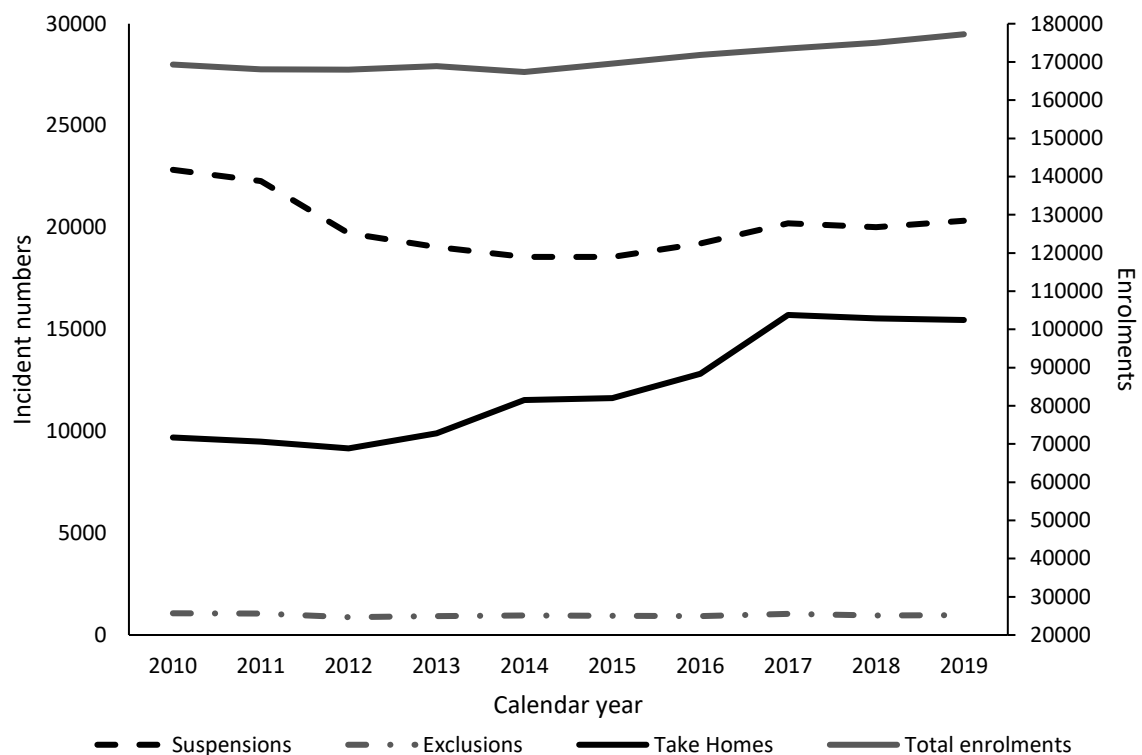


Figure 6.2. Number of take home, suspension, and exclusion incidents versus total enrolments (2019). Source: SA Department for Education data collections, unpublished, September 2020.

Figure 6.3 adapts the method used by Krezmien, Leone, and Achilles (2006) to display the total number of first time or single take home, suspension, and exclusion incidents versus the total number of repeat incidents (that is, all subsequent incidents occurring in the same calendar year). Both are calculated per 1000 students. This analytical approach is superior to using raw numbers (as per Figure 6.2), as it accounts for fluctuations in the student population without obscuring *repeat* incidents. It also shows whether increases or decreases are occurring predominantly at the level of first/single incidents or at the repeat incident level, or whether both are tracking the same direction. For example, the trend lines in Figure 6.3 illustrate that much of the increase in take homes is occurring in repeat incidents, suggesting not that many more *students* are receiving take homes but that many more take homes are being issued to *some* students. Raw number increases provide support for this assessment, as the number of first/single take home incidents increased by 36.2% between 2010 and 2019, while the number of repeat take homes rose by 78.1%.

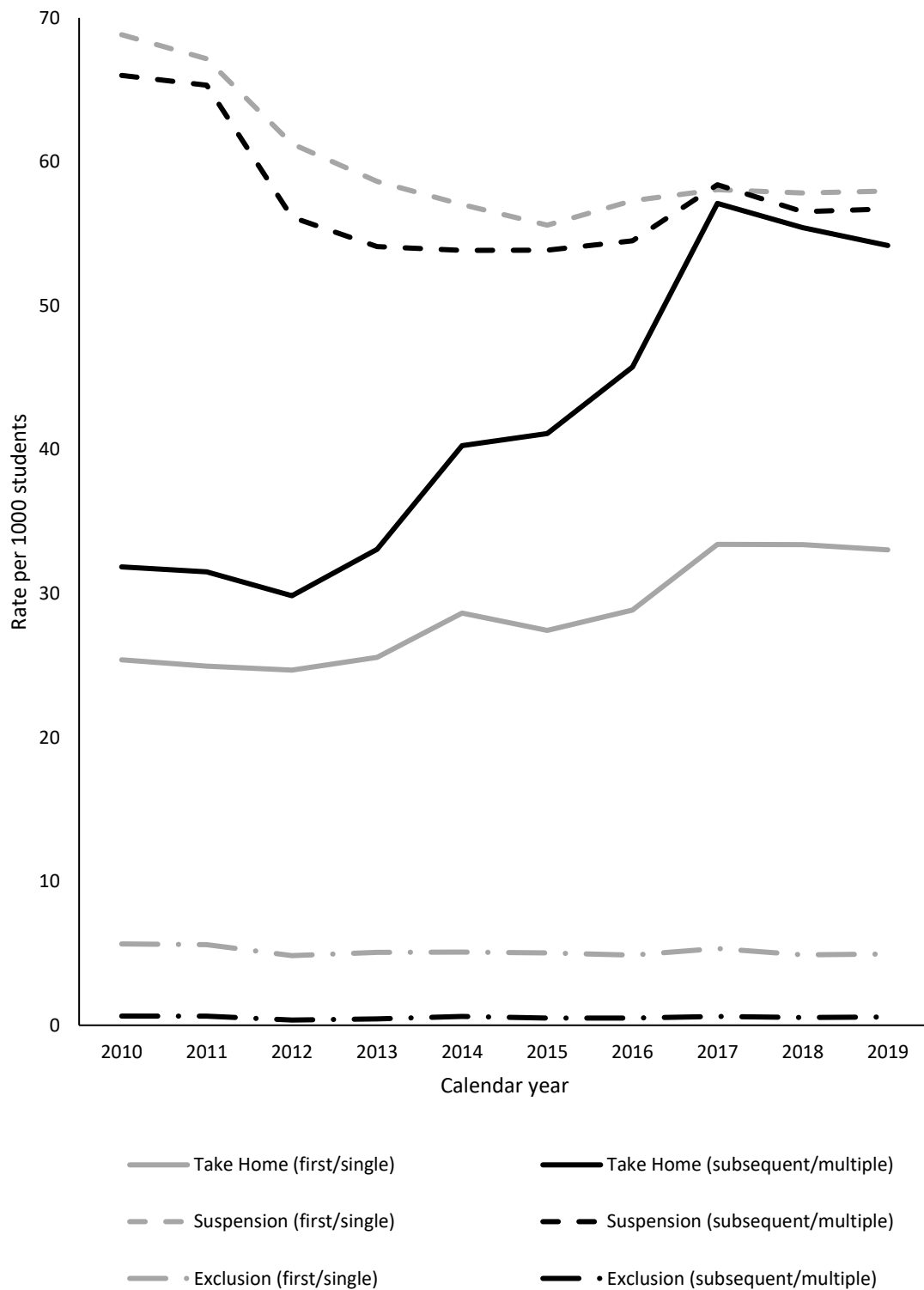


Figure 6.3. First/single incidents versus subsequent/multiple incidents per 1000 students, 2010 to 2019. Source: SA Department for Education data collections, unpublished, September 2020.

The pattern for suspensions is different as *both* the number of students suspended and the total number of suspensions decreased over time. This pattern corresponds with reports from SA Department for Education staff heard during the Inquiry consultation period. Again, however, the decline in first/single suspensions (-11.8%) was greater than the decline in repeat suspensions (-10.0%), suggesting that a smaller number of students was being suspended overall, but also that there was less of a decline in use for *some* students. Figure 6.3 also indicates that suspensions began declining in 2012 and reached their lowest point in 2015, after which the decline reversed.

Exclusions followed a similar pattern to suspension with a small decline between 2010 and 2019. This decline was again greater in the number of first/single exclusion incidents (-8.4%) than in the number of repeat exclusions (-5.6%). We will look more closely at this pattern of decline in suspensions and exclusions when we examine enrolments in Flexible Learning Options (FLO).

## 6.3 PREVALENCE OF TAKE HOMES, SUSPENSIONS, AND EXCLUSIONS BY YEAR LEVEL

### 6.3.1 Take homes

Take homes are used more commonly than suspension or exclusion in the early years of primary school (R-3), until increases in the use of suspension outstrip the use of take homes in Year 5 (Figure 6.4). There is a small peak in Year 3 with 124.0 take homes per 1000 students, after which there is a marginal decrease to the end of primary school. The use of take homes noticeably declines with the commencement of secondary school, falling from 107.8 take homes per 1000 students in Year 7 to 60.2 take homes per 1000 students in Year 8.

### 6.3.2 Suspensions

The use of suspension begins in Reception with 47.8 suspensions per 1000 students and rises continuously across year levels until peaking at 232.1 suspensions per 1000 students in Year 9. There is then a rapid decline through to Year 12, at which point the rate reaches its lowest with 24.8 suspensions per 1000 students. Note the very steep increase in suspensions between Year 7 (currently the last year of primary school in South Australia) and Year 8 (currently the first year of secondary). This pattern of suspensions mirrors documented patterns in Queensland prior to the transfer of Year 7 to secondary school in 2015 (Graham, 2018a). If improvements are not made to secondary school culture and practice in South Australia, it is highly likely that this steep increase in suspension rates will simply move from Year 8 to Year 7, as it did in Queensland (Graham, 2018a), when South Australia enacts the same Year 7 transition to secondary schooling reform in 2022.

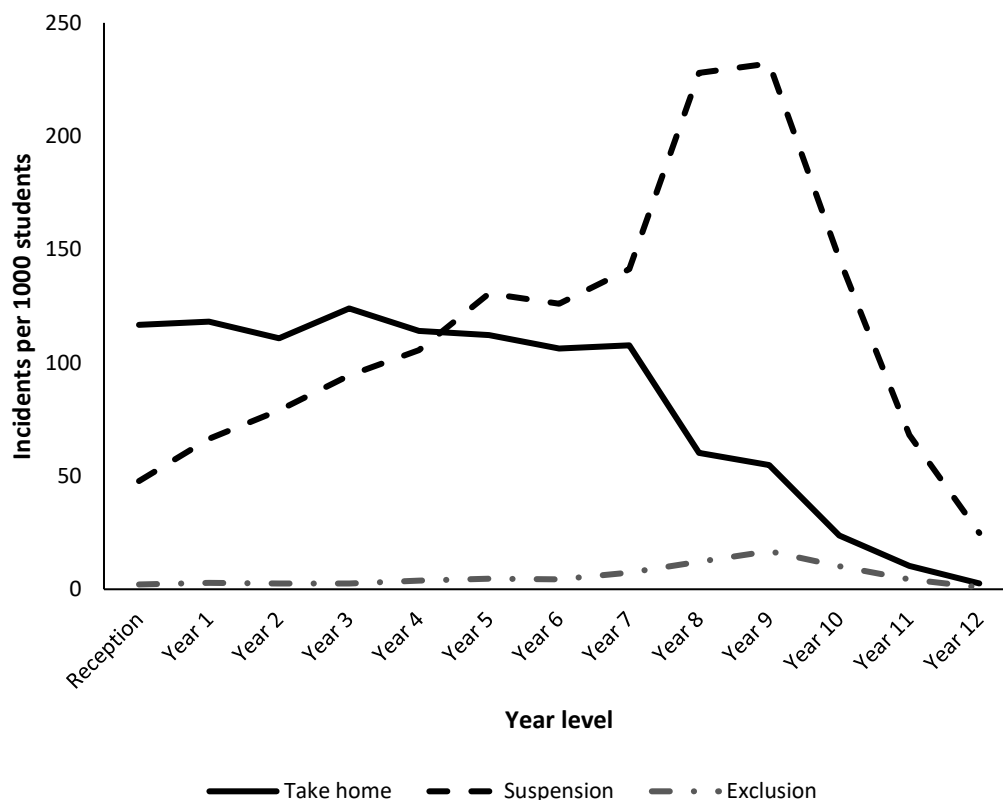


Figure 6.4. Take homes, suspensions and exclusions per 1000 students by year level (2019)  
 Source: SA Department for Education data collections, unpublished, September 2020.

### 6.3.3 Exclusions

Although the prevalence of exclusions is generally much lower than either take homes or suspension (Figure 6.4), exclusion patterns are more like those of suspension. There is a small sustained increase from Year 4 that peaks in Year 9. Like suspensions, the use of exclusion is also highest in secondary school, however, the decline in the use of exclusions post-Year 9 is not as steep as suspensions or take homes, suggesting some residual preference for this response in Years 10 and 11.

## 6.4 TRENDS IN PREVALENCE BY SCHOOL PHASE

It might appear from the broad trends in Figures 6.2 and 6.3, which indicated an increase in take homes and a decrease in suspensions, that take homes are being used more frequently in lieu of suspension. Further investigation by school phase, however, shows that the increase in take homes has taken place in primary schools (Figure 6.5), while the decline in suspensions largely came from secondary schools (Figure 6.6). Take homes are not therefore compensating for suspensions, rather there has been considerable decrease in suspensions in secondary schools and a considerable increase in take homes in primary schools. We investigate the apparent decrease in suspensions more closely in Section 6.6, *Flexible Learning Options*.

### 6.4.1 Primary take homes: UP

The number of first/single Take Home incidents in primary school increased from 28.9 students

in every 1000 in 2010 to 40.1 per 1000 students in 2019. As shown in Figure 6.5, however, there was a greater increase in repeat incidents, which almost doubled between 2010 (39.6 per 1000 students) and 2017 (78.6 per 1000 students). There has been a small decline in repeat take homes since 2017, with 73.7 per 1000 students in 2019. The overall trend, however, is up and this is the case for both first/single and subsequent/multiple incidents. In the 10 years from 2010 to 2019, the number of first or single incidents in primary school aged students increased by 53.7%, while repeat take homes increased by 105.6%. Note the SEE Procedures stipulate take homes must only be used in a “behavioural emergency”. Reasons for the use of take homes are examined later in this chapter.

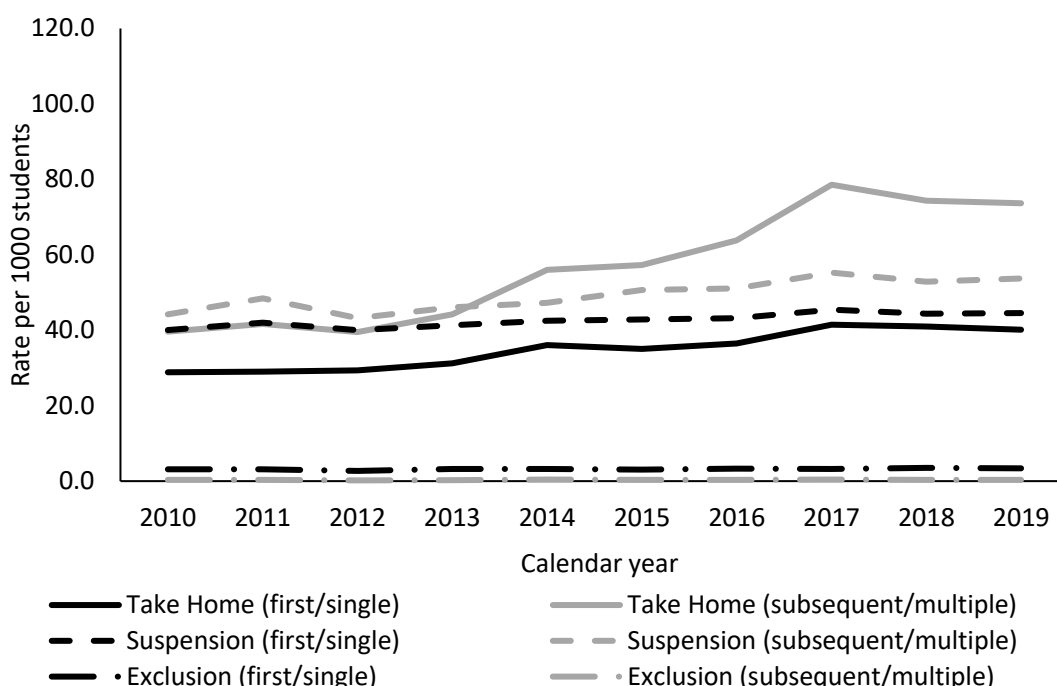


Figure 6.5. First/single incidents versus subsequent/multiple incidents per 1000 primary students (R-7), 2010-2019. Source: SA Department for Education data collections, unpublished, September 2020.

#### 6.4.2 Primary suspensions: UP

The number of students suspended (first/single incidents) in primary remained relatively steady over time, increasing from 40.0 students in every 1000 in 2010 to 44.6 students in 2019 (a 23.1% increase in the raw number of incidents). Again, there was a greater increase in repeat incidents (Figure 6.5), rising from 44.2 per 1000 students in 2010 to 53.7 in 2019, reflecting a 34.3% increase. Recall that a consistent claim made by education staff during the consultation process and in submissions is that take homes are used as a de-escalation strategy to prevent suspension and exclusion. If this were accurate, then it would be fair to expect a decline in suspensions, relative to take homes over time, not an increase in both.

#### 6.4.3 Primary exclusions: STEADY

Exclusions have remained relatively steady for both first/single incidents (increasing from 3,2 students in every 1000 in 2010 to 3.4 students in 2019) and at the level of repeat incidents (decreasing slightly from 0.4 incidents per 1000 students in 2010 to 0.3 incidents in 2019).



#### 6.4.4 Secondary take homes: VARIABLE

The number of students taken home (first/single incidents) in secondary first declined from 19.4 per 1000 students in 2010 to a low of 13.8 in 2016, and then rose to 17.6 per 1000 students in 2019 (Figure 6.6). Repeat incidents declined from 17.6 incidents per 1000 to 12.6 between 2010 and 2019.

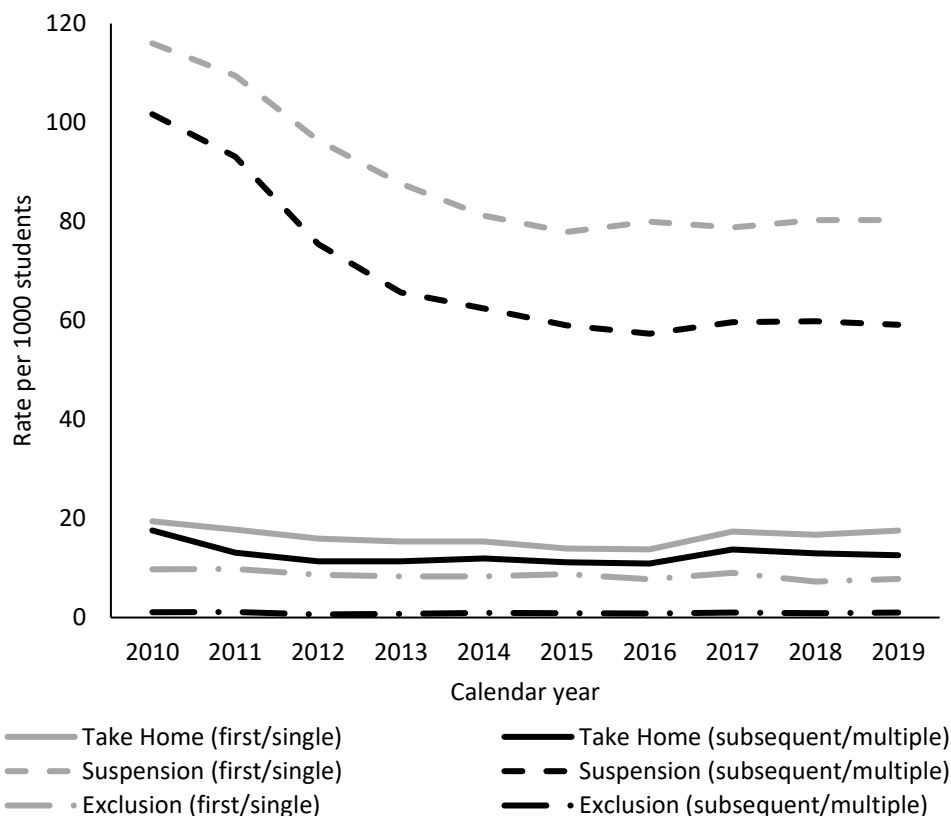


Figure 6.6. First/single incidents versus subsequent/multiple incidents per 1000 secondary students (8-12), 2010-2019. Source: SA Department for Education data collections, unpublished, September 2020.

#### 6.4.5 Secondary suspensions: DOWN, THEN STEADY

Suspensions of secondary school students have declined over time. This decline occurred between 2010 and 2015 but has plateaued since 2016. And, unlike primary, the decrease was greater in repeat incidents. For example, the number of first or single suspension incidents in secondary declined from 116.0 students in every 1000 to 80.3 (a decrease of 32.3% in the raw number of incidents), while the number of repeat suspensions declined from 101.7 per 1000 students in 2010 to 59.1 in 2019, reflecting a 43.2% decrease. This pattern will be investigated more closely in Section 6.6, *Flexible Learning Options*.

#### 6.4.6 Secondary exclusions: STEADY

Exclusions in secondary schools have remained relatively steady over time with 9.8 first/single exclusions in every 1000 students in 2010 and 7.8 first/single exclusions per 1000 students in 2019. Similarly, repeat exclusions were 1.1 per 1000 students in 2010, and 1.0 per 1000 students in 2019.

## 6.5 PRIMARY 'OTHER' AND SECONDARY 'OTHER'

Enrolments in these two categories predominantly reflect students enrolled in South Australian government special schools and classes. Take home, suspension and exclusion trends in these settings are different to those in mainstream primary and secondary schools and classes.

'Primary – Other' encompasses eight subcategories of student enrolments, six of which specifically relate to special units or schools. These six are:

- Physical or Sensory Impairment (PD)
- Hearing Impairment (PH)
- Vision Impairment (PV)
- a verified disability in any category, plus primary Intellectual Impairment (PS)
- severe or multiple disabilities in any category (PM)
- students with either a 'V level of support' or severe or multiple disabilities in Physical, Intellectual, or Sensory Impairment categories (PZ).

A further category is specified for students within mainstream schools in Disability special classes (PC). Finally, there is a subcategory for a mainstream school program which includes students newly arrived Australia with emerging English, or students from Australia with minimal English (PL – Intensive English Language Program; IELP). Suspended students enrolled in these categories ranged in age from 5 to 14 years.

'Secondary – Other' comprises 10 subcategories, primarily representing students in special units or special schools, but also others in mainstream settings. The seven subcategories within special schools or units include:

- Physical or Sensory Impairment (SD)
- Hearing Impairment (SH)
- Vision Impairment (SV)
- a verified disability in any category, plus primary Intellectual Impairment (SS)
- three verified disabilities in any category (SM)
- either a 'V level of support' or severe or multiple disabilities in Physical, Intellectual, or Sensory Impairment categories (SZ).
- students within mainstream schools in a designated special class (SC).

Three further categories are constituted by students in mainstream schools who had previously completed Year 12 but returned for additional studies at a Grade 12 level (SP); adults over 16 years (re-entry) undertaking further ungraded studies (SR); and a mainstream school program for students newly arrived Australia with emerging English, or students from Australia with minimal English (SL – New Arrivals Program; NAP). Suspended students enrolled in these categories ranged in age from 12 years to 21 or over.

### 6.5.1 Take homes in primary and secondary 'other': UP

Both first/single and repeat take homes are tracking up in primary and secondary 'other', but by a greater degree in the secondary years than the primary years. For example, between 2010 and 2019, first/single take homes increased by 57.6% in 'primary other' but by 132.1% in 'secondary other'. Repeat take homes increase by a much greater degree in both primary and secondary 'other', increasing by 128.2% and 182.5% respectively. These increases have been most significant since 2016.

### 6.5.2 Suspensions in primary and secondary ‘other’: UP

Both first/single and repeat suspensions increased over time in primary and secondary ‘other’ but – bucking the trend in mainstream schools – these increases were greater in secondary ‘other’ than primary ‘other’ (Figures 6.7 and 6.8). Between 2010 and 2019, the rate of first/single suspensions per 1000 students rose from 58.4 suspensions per 1000 primary years ‘other’ students to 59.6 per 1000, an increase of 1.9%. Repeat suspensions for the ‘primary other’ cohort also increased, albeit by a much larger degree (36.1%). Suspensions of ‘secondary other’ students increased markedly, both with respect to first/single (up by 82.1%) and repeat suspensions (72.2%). Again, change began in 2016.

### 6.5.3 Exclusions in primary and secondary ‘other’: MIXED.

Both first/single and repeat exclusions slightly declined in ‘primary other’, yet in ‘secondary other’ first/single exclusions increased by 52.8%. Repeat exclusions declined by 79.5% in ‘secondary other’ between 2018 and 2019 but only after a sustained increase from 2016 to 2018.

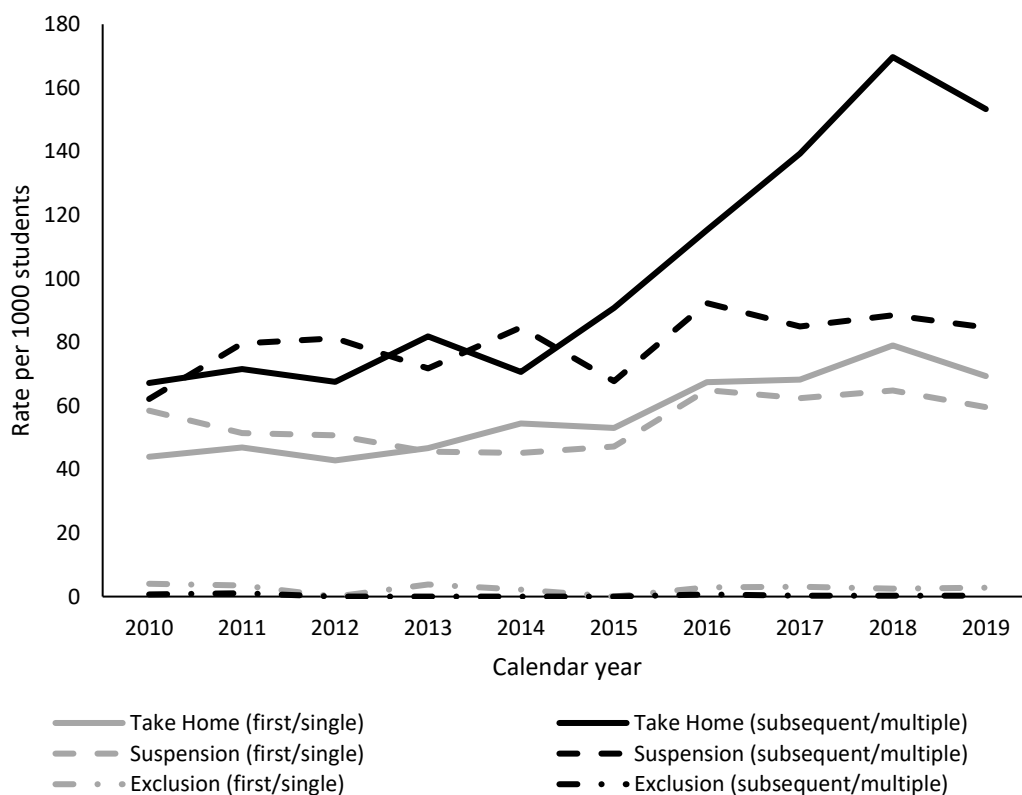


Figure 6.7. First/single incidents vs subsequent/multiple incidents per 1000 ‘Primary Other’ students (R-7), 2010-2019. Source: SA Department for Education data collections, unpublished, September 2020.

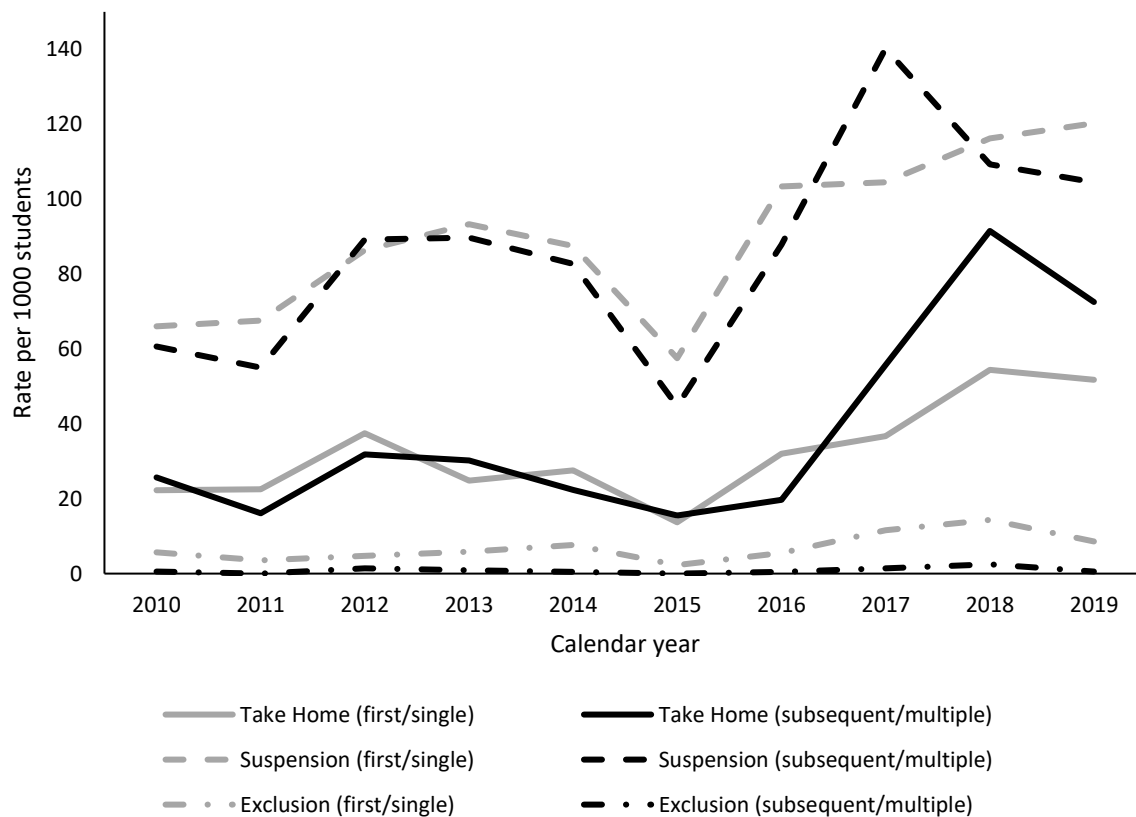


Figure 6.8. First/single versus subsequent/multiple incidents per 1000 'Secondary Other' students (8-12), 2010-2019. Source: SA Department for Education data collections, unpublished, September 2020.

## 6.6 FLEXIBLE LEARNING OPTIONS (FLO)

Enrolments in FLO increased 54.7% between 2010 and 2019, rising from 3,046 to 4,713 enrolments (Figure 6.9). During this 10-year period, enrolments peaked in 2012 with 5,443 students (an increase of 78.7% from 2010) before declining slightly in 2013 and 2014, then rising again to peak for a second time with 5,422 students in 2016. Figures 6.9 and 6.10 point to an inverse relationship between FLO and suspension and exclusion with FLO enrolment peaks mapping onto declines in total suspensions and exclusions, and vice versa.

This pattern could be interpreted to suggest that FLO is an effective 'antidote' to student behaviour that was otherwise resulting in suspension from the mainstream. However, this would be a dangerous interpretation to make, as the threshold counting for attendance in FLO programs is exceptionally low and student outcomes (e.g., SACE/school completion) are very poor (Bills et al., 2019). Given the findings from research into the performance and capacity of alternative education—whether government provided or otherwise—it is possible that students in FLO are no longer being suspended or excluded because a high proportion of students are not attending and/or are not being required to achieve academically (Graham et al., 2016; Mills et al., 2016). This observation resonates with the assessments of FLO by students and staff interviewed during Inquiry consultations and with the submissions by parents/carers and

behaviour support staff (see Chapter 6), however we did not have the data capacity to test the relationship between FLO attendance and suspension and exclusion patterns.

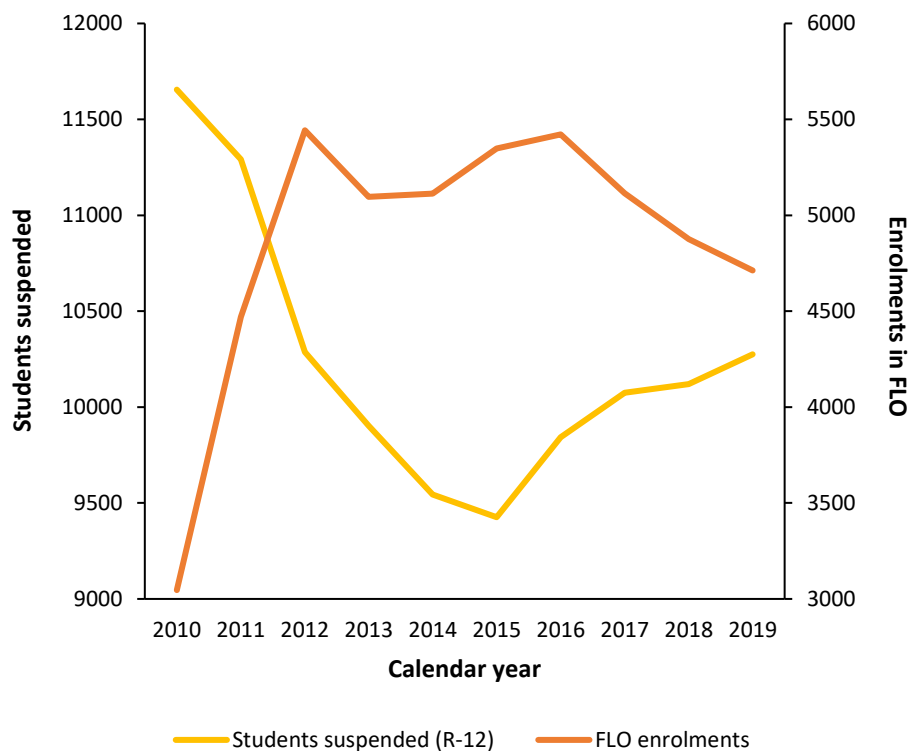


Figure 6.9. Number of students suspended at least once in a calendar year (left axis) and number of students enrolled in FLO, by calendar year 2010 to 2019.

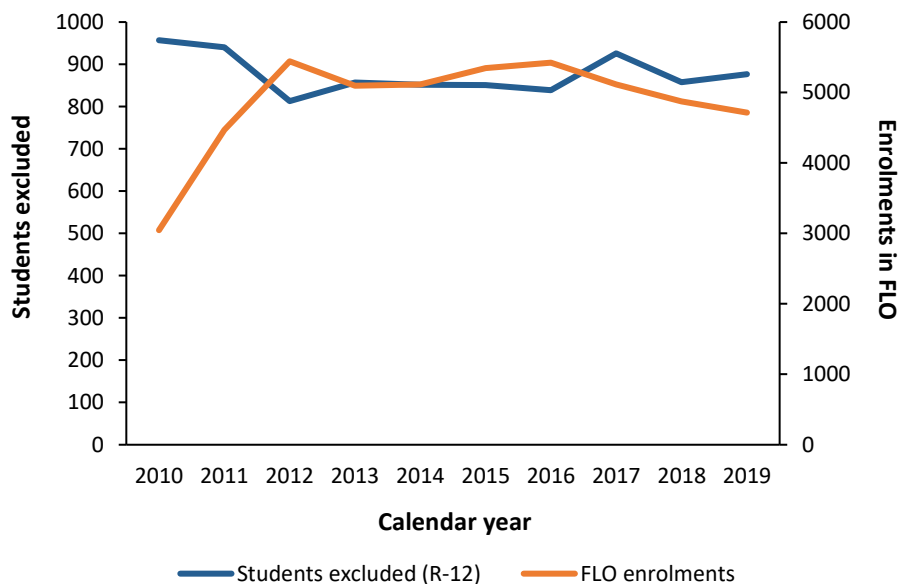


Figure 6.10. Students being excluded at least once in a calendar year (left axis) and number of students enrolled in FLO (right axis), by calendar year 2010 to 2019.

Source: SA Department for Education data collections, unpublished, September 2020.

Potentially explaining the post-2016 decline in FLO enrolments is a change in the age profile of the students enrolled in FLO. From 2010 to 2015, students from Year 3 to Year 12 were in FLO (Figure 6.11). From 2016, however, the data shows only enrolments of students in Years 8 to 12. Transfer of some students from FLO to other settings might also help to explain the post-2016 increases in take homes, suspensions and exclusions in mainstream primary and secondary schools, and segregated settings ('primary other' and 'secondary other').

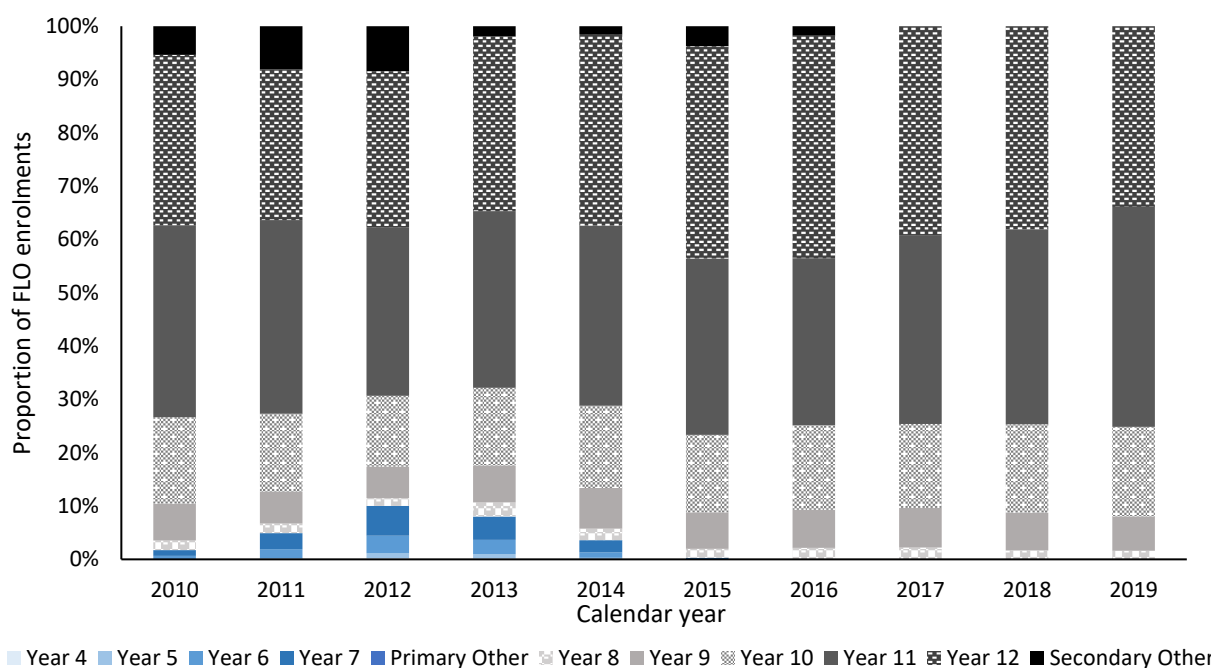


Figure 6.11. Percentage of FLO enrolments according to year level, by calendar year 2010 to 2019. Source: SA Department for Education data collections, unpublished, September 2020.

These patterns of increase and decrease in take homes, suspensions and exclusions demand deeper investigation. In Chapter 7, we examine take homes, suspensions, and exclusions more closely to better understand incident patterns.

## 6.7 CASE-STUDY 1: FLO STUDENTS IN 2017 – WHERE DID THEY GO?

In 2017, there were 734 Year 10 students enrolled in FLO. Figure 6.12 shows where these students had come from in the lead-up to Year 10 (during Year 9 in 2016), and where they were enrolled during the remainder of their school years (2018-2019).

Half the students had spent Year 9 in regular government schools (50.4%), 40.5% were already in a FLO setting, and 9.1% were not actively enrolled (e.g., moved interstate, transferred to non-government school, deceased). In Year 11, the vast majority (76.8%) remained in FLO, 9.9% returned to regular government schools, and 13.2% were no longer actively enrolled. In Year 12, 6.8% of the 734 students were enrolled in regular government schools, less than half were in FLO (47.3%), and 45.9% of the students were no longer actively enrolled. Of the 734 students, just 25 undertook the SACE (3.4%).

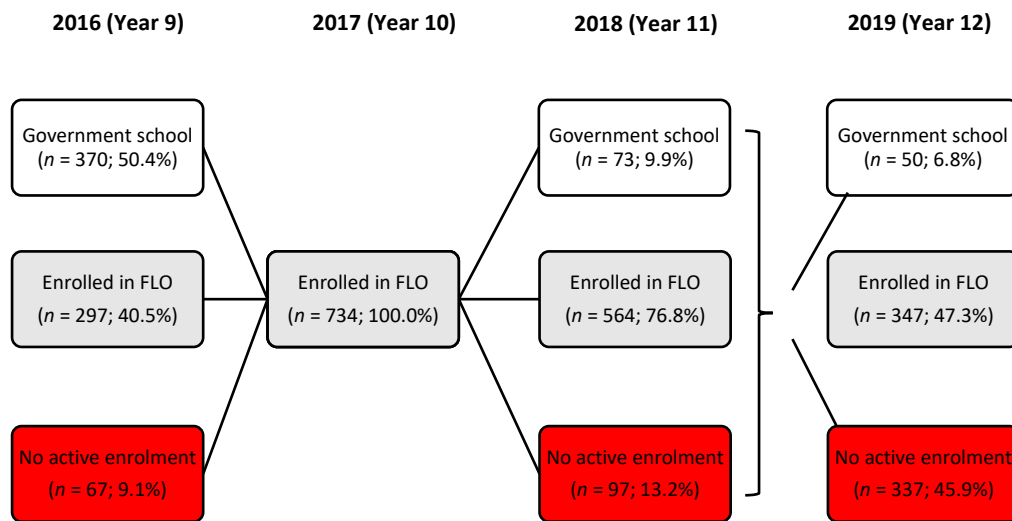


Figure 6.12. Pathways of the 734 Year 10 students enrolled in FLO during 2017. Source: SA Department for Education data collections, unpublished, September 2020.

For the students with no active enrolment in 2018 (Year 11) and 2019 (Year 12), their reasons for unenrolling are detailed in Figure 6.13. The most common reason for leaving the system was due to finding or seeking employment (32.0% for Year 11 school-leavers, and 50.7% for Year 12). However, the next highest percentage of students was not accounted for in enrolment records at all (26.8% for Year 11 and 32.6% for Year 12), with varying reasons given such as ‘no record’, ‘unknown’, ‘non-active students/not in census/exemption’, or ‘never attended/future’.

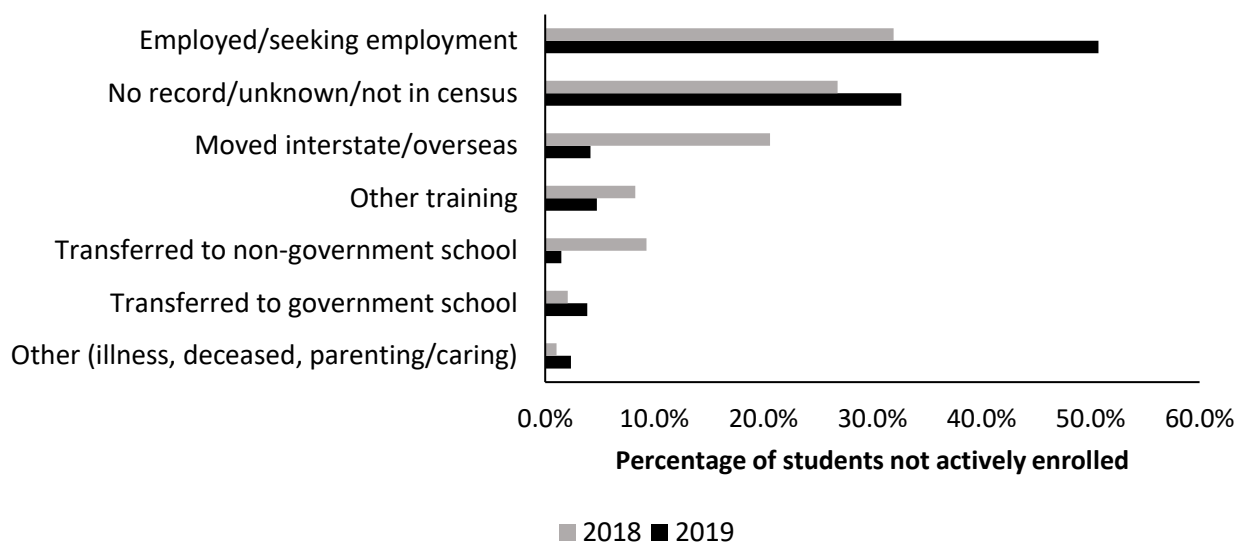



Figure 6.13. Reason given for having no active enrolment for the 734 students during Year 11 (2018) and Year 12 (2019). Source: SA Department for Education data collections, unpublished, September 2020.



In 2018, 20.6% of Year 11 students moved interstate or overseas (4.2% for Year 12), and some left school to pursue vocational education pathways or private training institutions (8.2% Year 11, 4.9% Year 12). Some Year 11 students (9.3%) transferred to non-government schools, and very few (1.5%) did so in Year 12. While in the no active enrolment category, some students were recorded as having transferred to government schools (2.1% Year 11, 3.9% Year 12). Finally, a very small percentage of students left due to parenting/caring responsibilities, illness, or they were deceased (1.0% Year 11, 2.4% Year 12).



## 7 INVESTIGATING TAKE HOME, SUSPENSION AND EXCLUSION PATTERNS

Chapter 7 examines trends in take homes, suspensions, and exclusions more closely by looking at patterns for each type of disciplinary response in turn. Data are analysed in most cases from 2010 to 2019 (10 years), except where records are not available; for example, NCCD (2016-2019), and reasons for take home, suspension or exclusion (2013-2019).

### 7.1 TAKE HOMES

As per the 2020 SEE Procedures (SA Department for Education, 2020), a 'Take home' is not a suspension. It is to be used only in a "behavioural emergency" and, according to the pre-July 2020 version of the SEE Procedures:

...occurs when a student is unwilling or unable to comply with reasonable directions from teachers and is endangering himself/herself or other members of the school community or interfering with the learning and teaching rights of other members of the school community. 'Take home' enables a student who is temporarily unwilling or unable to be managed in school level 'sit out' to be removed for the remainder of the day. It is not extended beyond the remainder of a single school day.

#### 7.1.1 Unpacking prevalence and use

The use of take homes has increased in the 10 years between 2010 and 2019, particularly in primary schools (see Figure 7.1). The highest recorded use of take homes was in Year 6 in 2017 with 47.4 take homes per 1000 students in that calendar year. The increase over time is highest in Reception with 17.5 take homes per 1000 students in 2010 rising to 36.3 per 1000 students in 2019, which is an increase of 107.7% in the take home rate for very young children experiencing their first year of formal schooling.

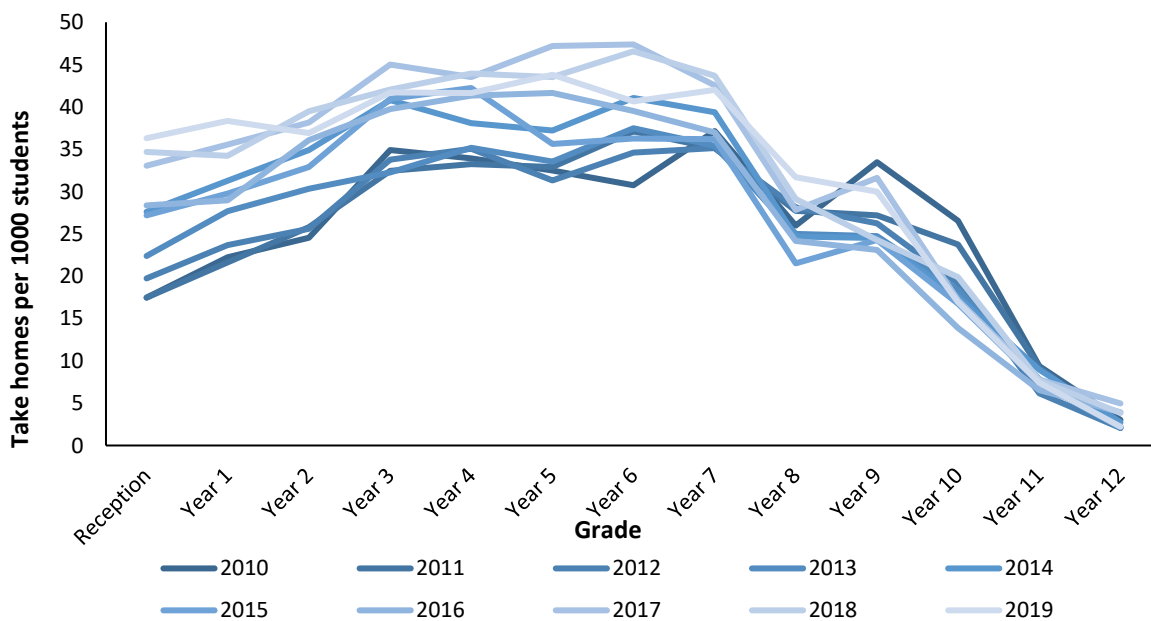


Figure 7.1. Students issued a Take home per 1000 students (R-12) by year level, 2010-2019.  
Source: SA Department for Education data collections, unpublished, September 2020.

### 7.1.2 Frequency of take homes

Figure 7.2 shows a small change over time in the use of take homes with 2019 showing the largest increase relative to previous years in single incidents and repeats. Just over half the students who received a take home in 2019 (52.1%) were sent home once. A further 18.1% of students received two take homes, another 18.9% received between three and five take homes, 7.7% received between 6 and 10, and 3.2% received more than 10 take homes in that calendar year. To put these percentages in perspective, 189 students received more than 10 take homes in 2019, with 64 of those students being sent home 15 or more times. *Case-Study 2: Take homes* (Section 7.2) looks at this group of 64 students in more depth.

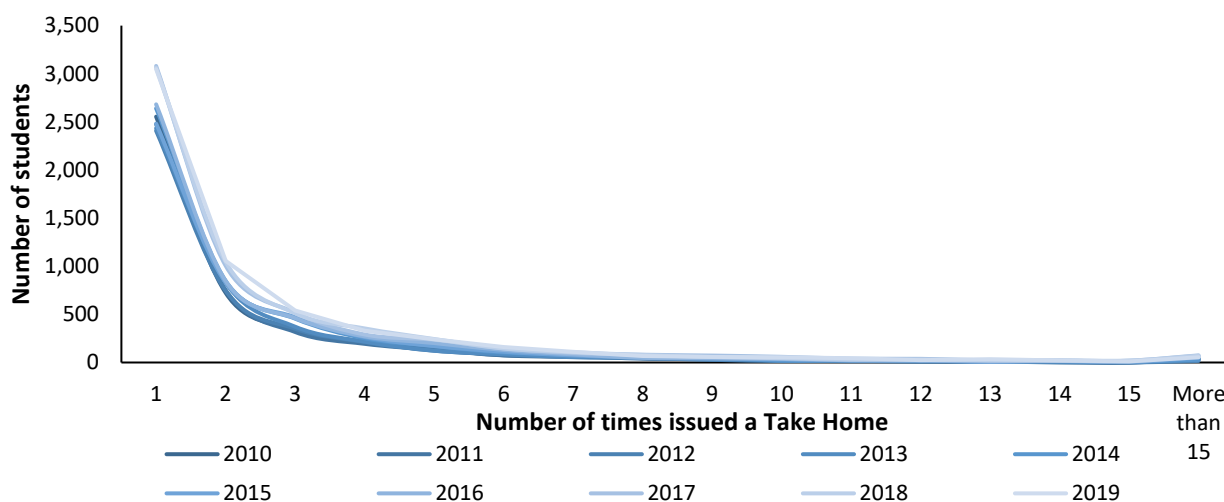


Figure 7.2. Number of times a take home was issued per individual student. Source: SA Department for Education data collections, unpublished, September 2020.

### 7.1.3 Reasons for take homes

The SA Department for Education has 71 behaviour codes which are used to classify reasons for take homes, suspensions and exclusions. To enable analysis of these data in line with the aims of this Inquiry, these 71 codes were re-classified into 11 categories. Table 7.1 organises the percentage of take homes into each of these categories for 2019 and lists them in order of prevalence. Each category is then unpacked in the text to examine the types of incidents characterising that category and their relative prevalence.

Table 7.1. Reasons for Take Homes recoded into 11 categories, in order of prevalence for 2019

Reasons for Take Homes (in order of prevalence)		
1.	School Rules Violations	39.0%
2.	Physical Acts that Harm Others (Minor)	29.0%
3.	Disengaged Behaviours	11.5%
4.	Disruptive Behaviour	6.7%
5.	Written and Verbal Threats	5.5%
6.	Bullying and Harassment (inc. cyber)	4.2%
7.	Physical Acts that Harm Others (Major and/or with a weapon)	2.1%
8.	Property Destruction (exc. Arson)	1.2%
9.	Sexual Acts and Behaviours	0.3%
10.	Drugs	0.2%
11.	Other Criminal Acts (Theft and Arson)	0.2%

#### 7.1.4 Unpacking the Reasons for Take homes

(1) *School Rules Violations*. There were 6,023 take homes in the ‘School Rules Violations’ category in 2019, accounting for 39.0% of total take homes. This category includes eight of the 10 SA Department for Education ‘Not following school behaviour code’ reasons; e.g., being out of bounds, not completing a consequence, defiant manner of questioning, non-compliance with reasonable instructions, misuse of property, and verbal abuse towards a staff member, student or other. Of these, ‘non-compliance with reasonable instructions’ accounted for the most take homes in this category (59.6%).

(2) *Physical Acts that Harm Others (Minor)*. There were 4,467 take homes in the ‘Physical Acts (Minor)’ category in 2019, accounting for 29.0% of total take homes. Within this reason category are three sub-categories that document parties to the incident: students, a staff member, or ‘other’. Three in four take homes issued in the minor physical acts category (75.3%) were for incidents involving other students.

(3) *Disengaged behaviours*. There were 1,767 take homes in the disengaged behaviours category, accounting for just over one in 10 of all take homes (11.5%) in 2019. It is important to note that coded into this category are school avoidance behaviours that are *reinforced* by sending students home: off-task behaviour, work avoidance, avoiding completing tasks both in class and at home, not attending to instruction, missing class and leaving school grounds. The latter two reasons accounted for one in every two take homes (51.6%) in the ‘disengaged behaviours’ category.

(4) *Disruptive behaviour*. There were 1,035 take homes in the disruptive behaviour category, accounting for 6.7% of total take homes in 2019. Coded into the disruptive behaviour category are making noises, being uncooperative or antisocial, and unwanted (non-sexual) touching. Accounting for 95.6% of take homes in the disruptive behaviour category in 2019 were uncooperative (63.0%) and antisocial behaviours (32.6%).

(5) *Written and Verbal Threats (including threatening gestures both with and without a weapon)*. There were 853 take homes in this category in 2019, accounting for 5.5% of all take homes. Unlike ‘Physical Acts that Harm Others’, no detail is available as to who these threats were made to, which makes it difficult to discern the nature of the behaviours in this category. ‘Threatening Gestures’ accounted for the most take homes in this category (41.6%) followed by ‘Verbal and Written Threats’ with 35.4%.

(6) *Bullying and Harassment (including cyberbullying)*. There were 655 take homes in the ‘Bullying and Harassment (inc. cyber)’ category in 2019, accounting for almost one in 20 take homes (4.2%). ‘Physical bullying’ accounted for the most take homes with 49.9% in the ‘Bullying and Harassment’ category. ‘Bullying – Verbal or Written’ accounted for 30.2% of take homes.

(7) *Physical Acts that Harm Others (Major and/or with a Weapon)*. There were 326 take homes in this category, accounting for just 2.1% of total take homes in 2019. The ‘Physical Acts (Major)’ category includes six subcategories of which ‘Actual Violence using a Weapon – Environmental, i.e., a stick’ is the most common with 37.7% of take homes in the Major Physical Acts category, followed by ‘Actual Violence using a Weapon – Furniture’ (35.6%).

(8) *Property destruction (excluding arson)*. There were 185 take homes in this category, representing 1.2% of total take homes in 2019. The property destruction category includes graffiti, vandalism, and property damage. Of these three sub-categories, ‘property damage’

accounted for the most take homes with 82.2% of the ‘Property destruction’ category.

(9) *Sexual Acts and Behaviours*. There were 48 take homes in this category, accounting for 0.3% of total take homes in 2019. ‘Sexual Behaviour–Problematic’ accounted for the largest number of take homes in the ‘Sexual Acts and Behaviours’ category with 41.7%. Examples of ‘Sexual Behaviour–Problematic’ include students accessing pornographic material on an iPad, exposing themselves, making sexualised comments or engaging in sex.

(10) *Drugs*. There were 35 take homes for drugs, accounting for 0.2% of total take homes in 2019. Tobacco/smoking, cannabis and alcohol together accounted for 65.7% of these take homes. There were *no* take homes for hard drugs: ice, speed, cocaine, MDMA, ecstasy, which is a strong indication that young people are not bringing, using, or dealing these types of drugs in schools.

(11) *Other Criminal Acts (Theft and Arson)*. There were 34 take homes in this category in 2019, accounting for 0.2% of total take homes in 2019.

#### 7.1.5 Reasons for take homes by school phase

Disaggregation by school phase reveals some similarities but also some differences in the take homes received by primary and secondary school students (Table 7.2). The most common reason for take homes among primary school students is ‘School Rules Violations’ with one in three primary school take homes falling into this category. ‘School Rules Violations’ is also the most common reason for take homes among secondary school students, with just over one in two take homes occurring for this reason.

Table 7.2. *Reasons for take homes disaggregated by school phase as a percentage of total incidents in 2019*

Reasons for Take Home	Primary	Secondary
1. School Rules Violations	36.9%	52.8%
2. Physical Acts that Harm Others (Minor)	31.6%	12.2%
3. Disengaged Behaviour	11.6%	10.2%
4. Disruptive Behaviour	6.9%	5.5%
5. Written and Verbal Threats	5.3%	7.0%
6. Bullying and Harassment (inc. cyber)	3.7%	7.5%
7. Physical Acts that Harm Others (Major and/or with a weapon)	2.3%	1.0%
8. Property Destruction (exc. Arson)	1.1%	1.7%
9. Drugs	–	1.4%
10. Sexual Acts and Behaviours	0.3%	0.3%
11. Other Criminal Acts (Theft and Arson)	0.2%	0.3%

Source: SA Department for Education data collections, unpublished, September 2020.

The proportion of take homes for Physical Acts (Minor) is considerably higher in primary than in secondary. One possible explanation for this discrepancy is developmental immaturity: younger children are more likely to engage in physical altercations because they are yet to develop the self-regulation and language competence to engage in verbal negotiation. For some children, especially those with language and attention difficulties, this is a skill that must be taught using an educative response to behaviours of concern. Disturbingly, one in 10 take homes in both primary and secondary are used as a response to disengaged behaviours, despite the reinforcing effect that any form of exclusionary discipline has on task or school avoidance.

### 7.1.6 Changes over time: Primary Take Homes

Reasons for take home data is only available from 2013 through 2019. As shown in Figure 7.3, the percentage of take homes issued to primary school aged students for 'Disengaged Behaviour', 'Minor Physical Acts that Harm Others (Minor)', and 'Written/Verbal Threats' have each increased over time (albeit with minor fluctuations across years), while the percentage attributable to 'Bullying and Harassment' and 'Disruptive Behaviour' has decreased over time. Each of these increases and decreases were statistically significant (see Appendix B), reflecting real change over time. However, as incidence has increased overall, these changes may reflect substitution between reason categories, perhaps due to a lack of distinction between some categories (e.g., 'Bullying and Harassment' versus 'Written and Verbal Threats', and 'Disengaged' versus 'Disruptive' behaviour).

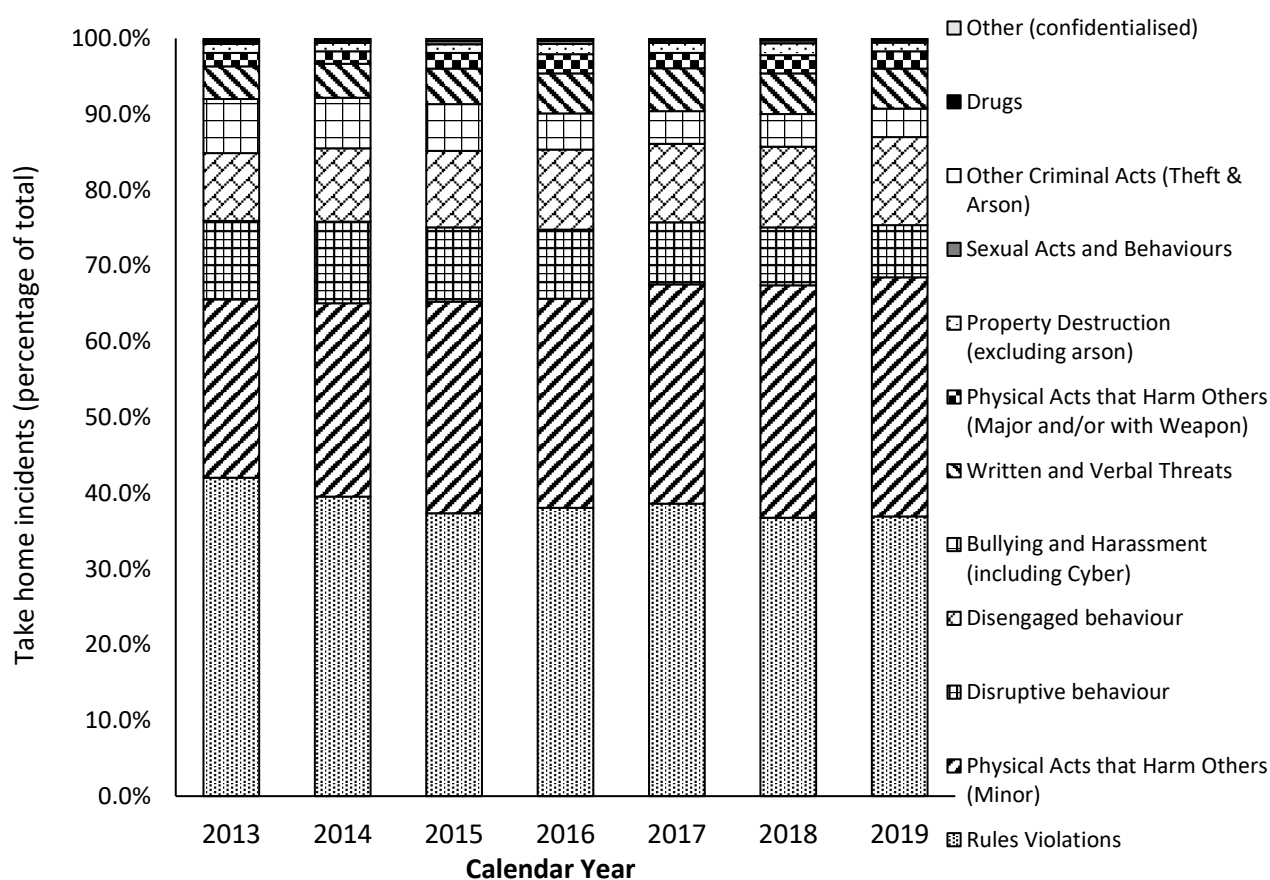


Figure 7.3. Patterns of increase and decrease in take homes by reason category for primary school students, 2013-2019. Note that any confidentialised incidents have been collapsed into the 'Other (confidentialised)' category. Source: SA Department for Education data collections, unpublished, September 2020.

Changes in the selection of reason categories may also have come about as a result of the *Review of procedures and processes in Department of Education and Children's Services (DECS) related to bullying and violence in schools* (Cossey, 2011) which defined and clarified bullying and cyberbullying, discrimination, harassment (including sexual), and violence, and due to subsequent revisions to the Suspension, Exclusion and Expulsion procedures that were implemented in 2012.

### 7.1.7 Changes over time: Secondary Take Homes

As shown in Figure 7.4, the use of take homes was more stable in secondary schools with no significant or sustained change between the years 2013 to 2019.

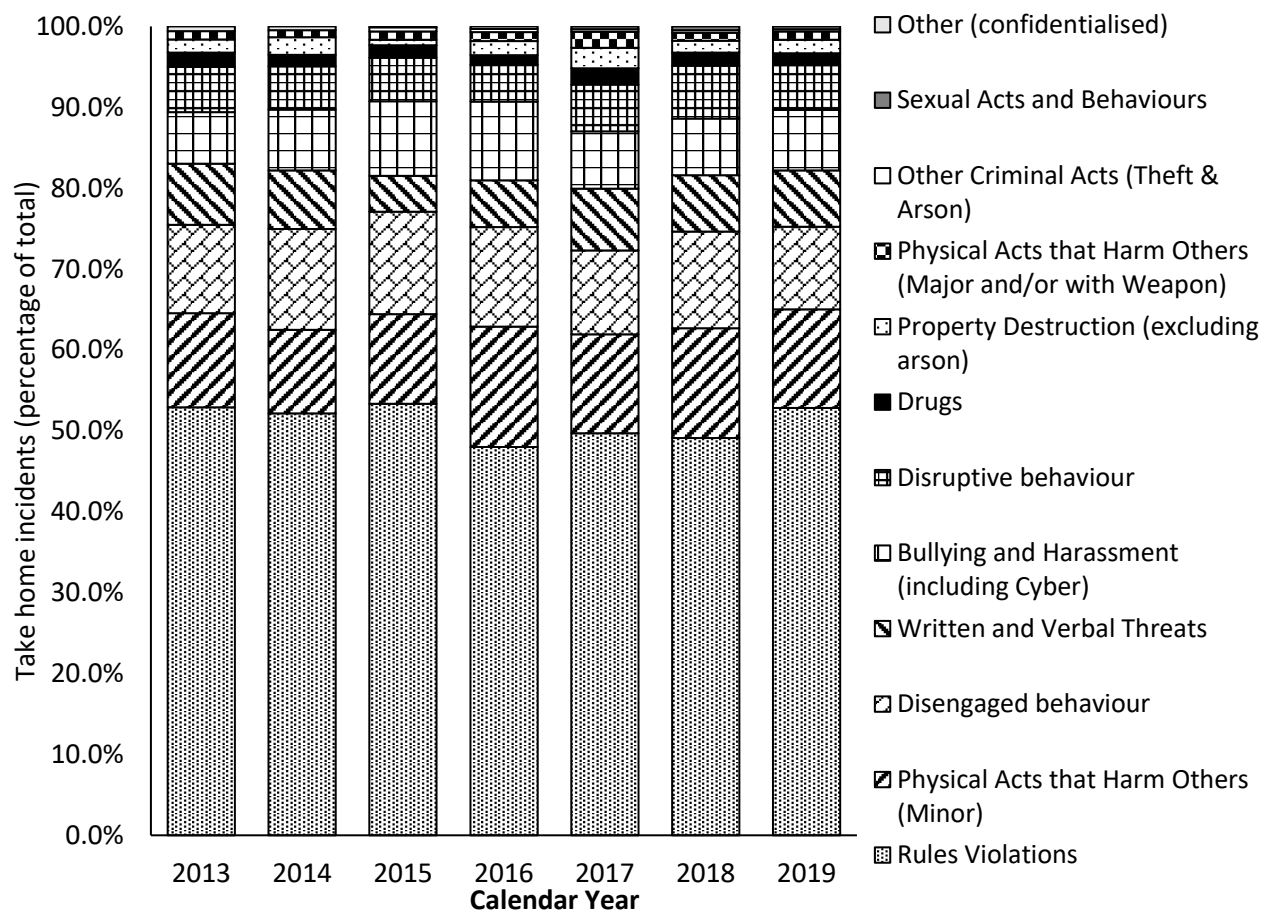


Figure 7.4. Patterns of increase and decrease in take homes by reason category for secondary school aged students, 2013 to 2019. Note that any confidentialised incidents have been collapsed into the 'Other (confidentialised)' category. Source: SA Department for Education data collections, unpublished, September 2020.

## 7.2 CASE-STUDY 2: TAKE HOMES

The Inquiry team requested data from the SA Department for Education Data Unit to enable us to learn more about the 64 students who received 15 or more take homes in 2019.

All 64 students were aged between 5 and 16 years old and were relatively evenly distributed across primary school grades with a small number in 'Primary Other' and 'Secondary Other' (Figure 7.5). Almost one in 10 were in segregated special education settings (9.4% 'primary other'). Of the 64 students, 14 were Aboriginal (21.9%), nine were in care (14.1%) and most were attending disadvantaged schools (82.8% in Category 1-3 schools).

All 64 students (100%) were recorded in NCCD as receiving adjustments for reasons of disability in 2019, with 11 (17.2%) on the autism spectrum.

Despite each of the 64 students in this group being sent home more than 15 times in one calendar year, only 25 (39.1%) were recorded as receiving the highest level of adjustments in NCCD, known as Extensive Adjustments (de Bruin et al., 2020). Another 25 (39.1%) were recorded as receiving Substantial Adjustments, and 10 (15.6%) received Supplementary Adjustments. Most of these students (62.5%) received adjustments in the 'social/emotional' support category, 31.3% received adjustments in the 'cognitive' support category, and the remainder received adjustments in the 'sensory' support category.

Importantly, 6.3% of students who received 15 or more take homes in 2019 were not receiving any adjustments beyond those provided within Quality Differentiated Teaching Practice.

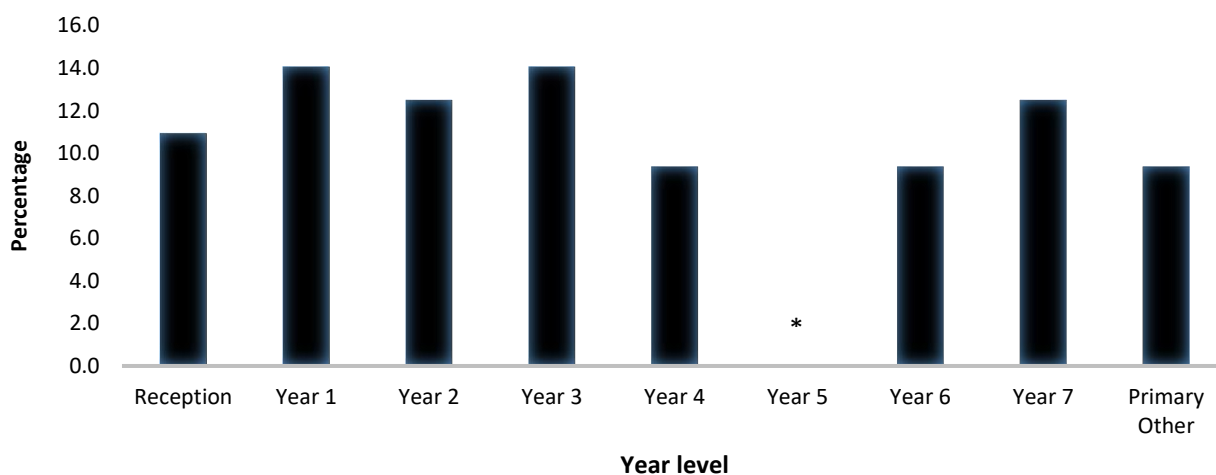


Figure 7.5. Grade/year level distribution of the 64 students who received more than 15 take homes in 2019.

\*Below six Year 5 take homes and below six Secondary Other take homes were received and these categories are therefore confidentialised. Source: SA Department for Education data collections, unpublished, September 2020.

This tiny group of 64 primary school aged children constitutes just 0.04% of the total number of students enrolled in South Australian government schools, yet they received 8.3% of all take homes in 2019. In total, the group received 1,279 take homes between them, averaging 20 take homes per child in that school year. These data provide support for the evidence given in submissions by some parents and carers regarding the high frequency of take homes received. It is also important to note the submissions by staff and parents/carers that not all take homes

are being recorded and that informal take homes still occur. Consequently, the number of students experiencing repeat take homes, as well as the number of take homes being received, could potentially be much higher than documented here.

The SEE Procedures state that take homes should only be used in a behaviour emergency, however, the reasons for the take homes received by students in this group suggest this is commonly not the case.

Rules Violations (e.g., being out of bounds, not following instructions) and Minor Physical Acts together account for more than two-thirds of the 1,279 take homes received by these 64 primary school children (Figure 7.6). Recall that 100% of the children in this case-study sample were recorded as having a disability for the purposes of NCCD and that as many as one in five were not receiving the level of adjustment necessary to prevent these outcomes.

The types of incidents coded as ‘Not following instructions’ and ‘Minor Physical Acts’ could well be due to a lack of oral language comprehension or a fight/flight response due to overwhelm. This was a common theme in the responses of parents and carers who were concerned that their child was being sent home as a result of behaviours that could have been prevented had appropriate adjustments and effective supports been implemented.

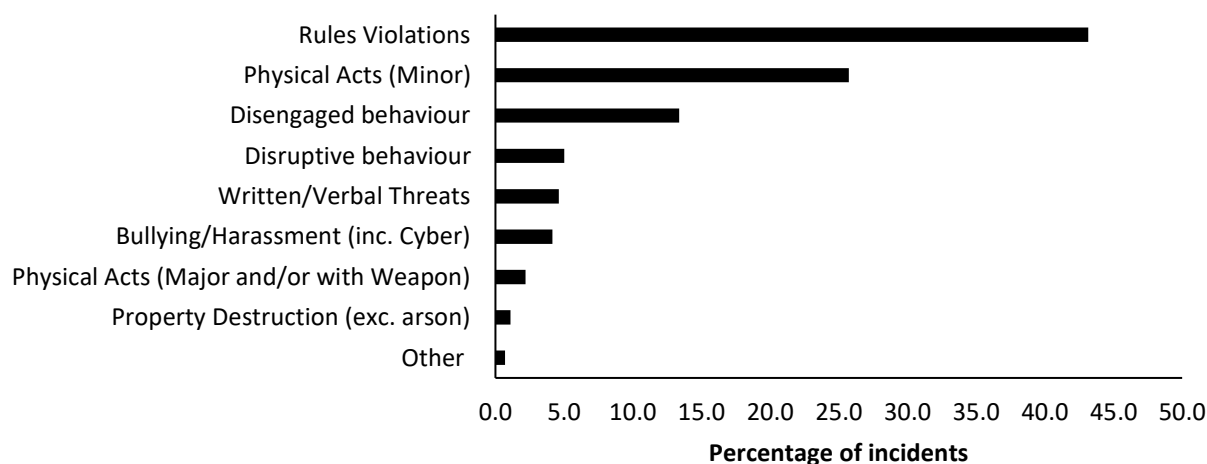


Figure 7.6. Reasons for the take homes received by the 64 students with more than 15 take homes in 2019. The category ‘Other’ comprises nine take homes across the categories of Sexual Acts and Behaviours, Drugs, and Other Criminal Acts (Theft and Arson). Source: SA Department for Education data collections, unpublished, September 2020.

Take homes should be used with caution and very infrequently because, as we discussed in the literature review (Chapter 4), exclusionary discipline (enacted through take homes, suspension, and exclusion) inadvertently provides students with relief from an aversive environment. This works to both reinforce the behaviours for which the take home, suspension or exclusion was issued and to distract educators from the barriers within that environment by locating the source of the problem to be wholly within the student. That take homes are being used so early in children’s schooling is of real concern, given the potential for reinforcement and escalation over time. We will examine this possibility further in Case Study 6, *Looking back at take homes, suspensions, and exclusions*.



## 7.3 SUSPENSIONS

As described in Section 3.6, the 2019 SEE Procedures (SA Department for Education, 2020) stated that “suspension from school is an action taken by the principal to address a range of irresponsible behaviours”. Suspensions in the South Australian government school system prevent students from attending school for a period of one to five (5) days, depending on the nature of the behaviour that led to the suspension.

### 7.3.1 Prevalence and use

As noted earlier, suspensions declined in the 10-year period between 2010 and 2019, however, Figure 7.7 shows that this decrease occurred mainly in secondary schools. As noted earlier in this chapter, the decline in secondary school suspensions has been offset by enrolments in FLO. This does not mean FLO is working to reduce suspensions for as we note in Chapter 9, there are serious questions to be asked about FLO attendance, what students are learning when they do attend, whether FLO is adding positively to students’ educational outcomes or whether it provides a means to “shift the problem elsewhere”, as noted by some respondents in Chapter 6.

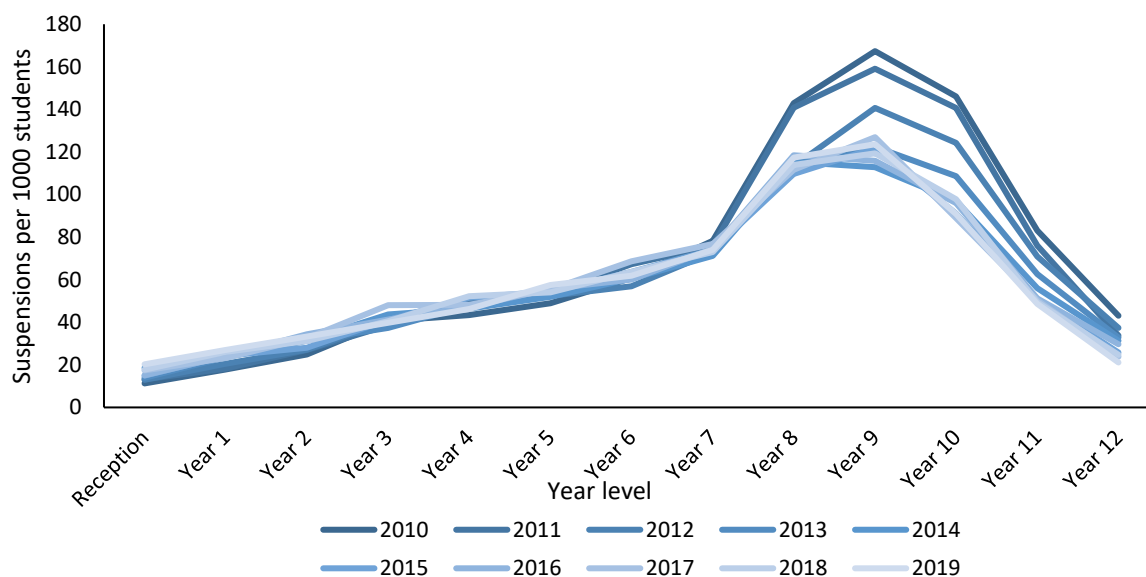


Figure 7.7. Students issued a suspension per 1000 students (R-12) by year level, 2010-2019. Source: SA Department for Education data collections, unpublished, September 2020.

### 7.3.2 Length of suspension

There are patterns in suspension length indicating both incident severity and principal preference. One-day suspensions are most common, while four-day suspensions are the least common (Figure 7.8). Analysis indicates greater variability in the use of one and two-day suspensions than three to five-day suspensions, perhaps reflecting greater consistency in practice and similarities in the types of incidents for which suspensions of these lengths are issued.

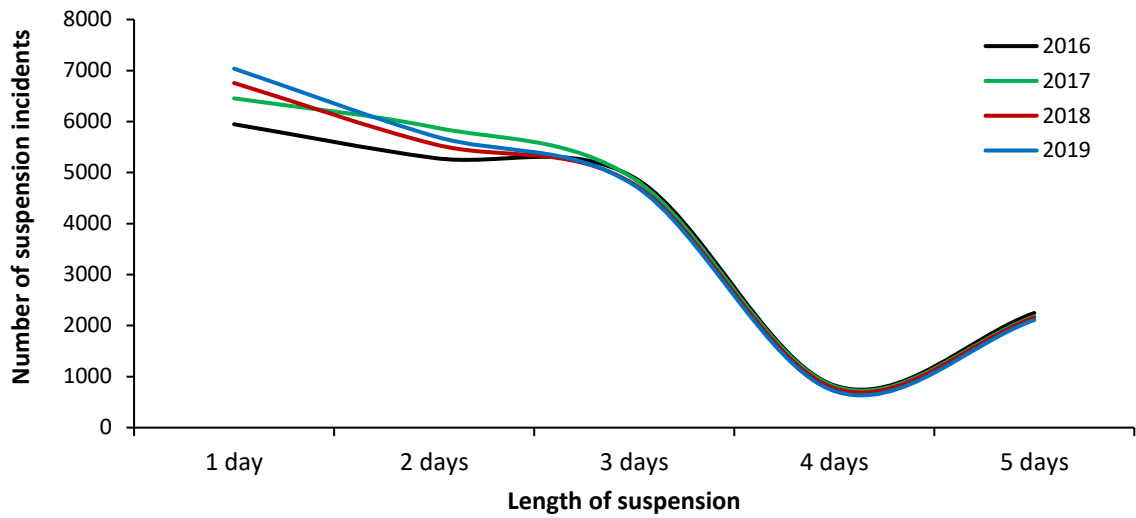


Figure 7.8. Number of suspensions by length of suspension in days, 2016-2019. Source: SA Department for Education data collections, unpublished, September 2020.

Figure 7.9 shows that the highest proportion of suspension incidents are issued for Minor Physical Acts, across all suspension lengths and this seems even more pronounced for five-day suspensions. The proportion of suspensions for Rules Violations is smaller for five-day suspensions, whereas drug-related suspensions increase slightly for successive days. Similarly, the proportion of five-day suspensions given for Physical Acts Major is double that of one-day suspensions, suggesting that five-day suspensions are being given for more serious incidents. Overall, however, minor reasons still dominate across suspension lengths.

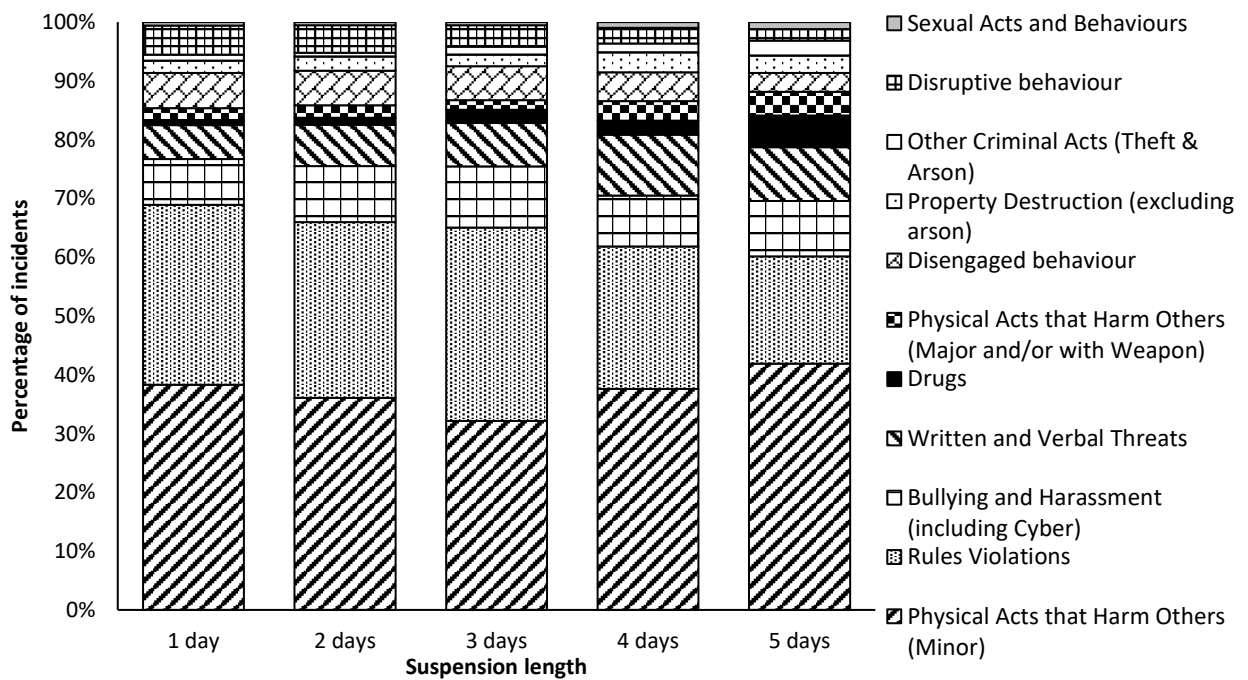


Figure 7.9. Percentage of suspensions according to Reason for Suspension, for each Length category separately (1 to 5 days), calendar year 2019. Source: SA Department for Education data collections, unpublished, September 2020.

### 7.3.3 Frequency of suspension

Suspension statistics point to some consistency in the frequency of suspension use in the 10 years between 2010 to 2019. The trends in Figure 7.10 are remarkably uniform and indicate little change over time in suspension frequency, despite an apparent decline in the use of suspension over time. These trends also indicate that most students are suspended only once or twice, however, these patterns are examined in more depth in Figure 7.11.

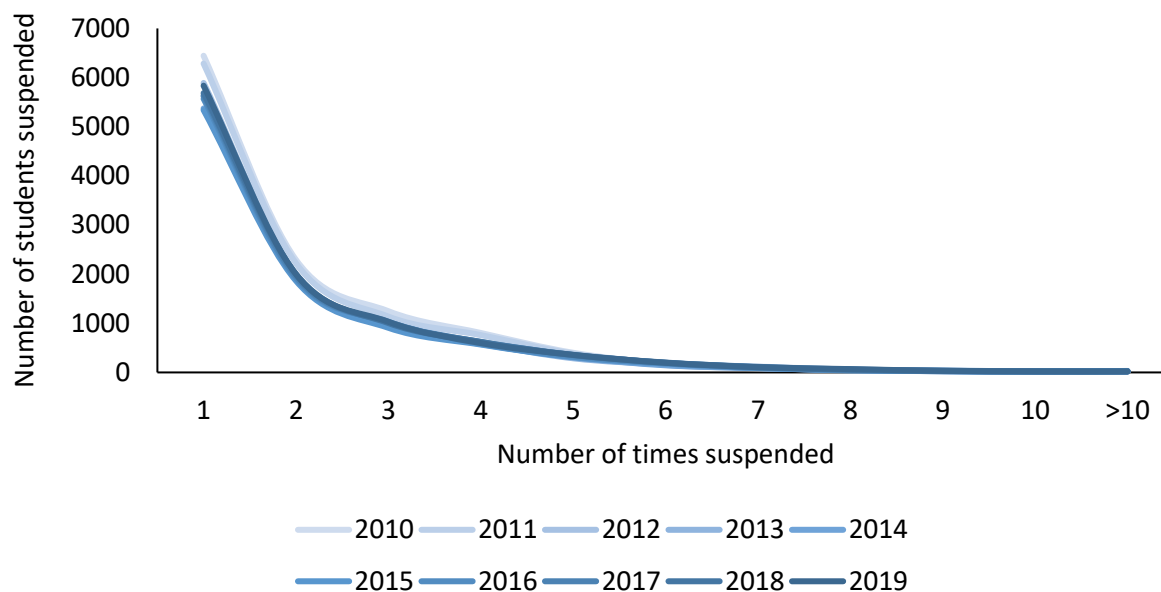


Figure 7.10. Number of students suspended by the number of times suspended in a calendar year, 2010-2019. Source: SA Department for Education data collections, unpublished, September 2020.

Of the students who were suspended in 2019, a small majority (56.8%) were suspended only once that year (Figure 7.11). The remainder (43.2%) were suspended more than once in the 2019 school year. Of the students who received repeat suspensions: 19.5% were suspended twice, 10.0% were suspended three times, 5.8% were suspended four times, and 7.8% were suspended five or more times in the 2019 school year.

Importantly, s. 76(3) of the *Education and Children's Services Act 2019* (SA) (previously s. 44(2) of the *Education Regulations 2012* (SA)) stipulates that principals must seek authorisation from the Chief Executive (CE) of the SA Department for Education to suspend a student more than four times in one school year.

The Procedures for Suspension, Exclusion and Expulsion of Students notes that this authority is delegated to a 'Regional Director' or 'Assistant Regional Director of Education' (Education Directors (ED)). A total of 804 students were suspended more than four times in 2019 resulting in 5,014 suspensions for which ED permission was required under the regulations. We note here that none of the Education Directors interviewed during the consultation period knew about this requirement and none could recall ever providing such permission, indicating that the pop-up alert to seek permission in EDSAS is being overridden by school staff.

Furthermore, we note that 42 of the 804 students were suspended 10 or more times. *Case-Study 4: Suspensions* (Section 7.5) looks at this group of 42 students in more depth.

### 7.3.4 Patterns in suspension

As shown in Figure 7.11, there is an inverse relationship between students and incidents with the percentage of incidents rising in relation to the percentage of students. For example, 56.8% of students suspended (red outline) received only one suspension and this group accounted for just over one quarter (28.7%) of all suspensions in 2019.

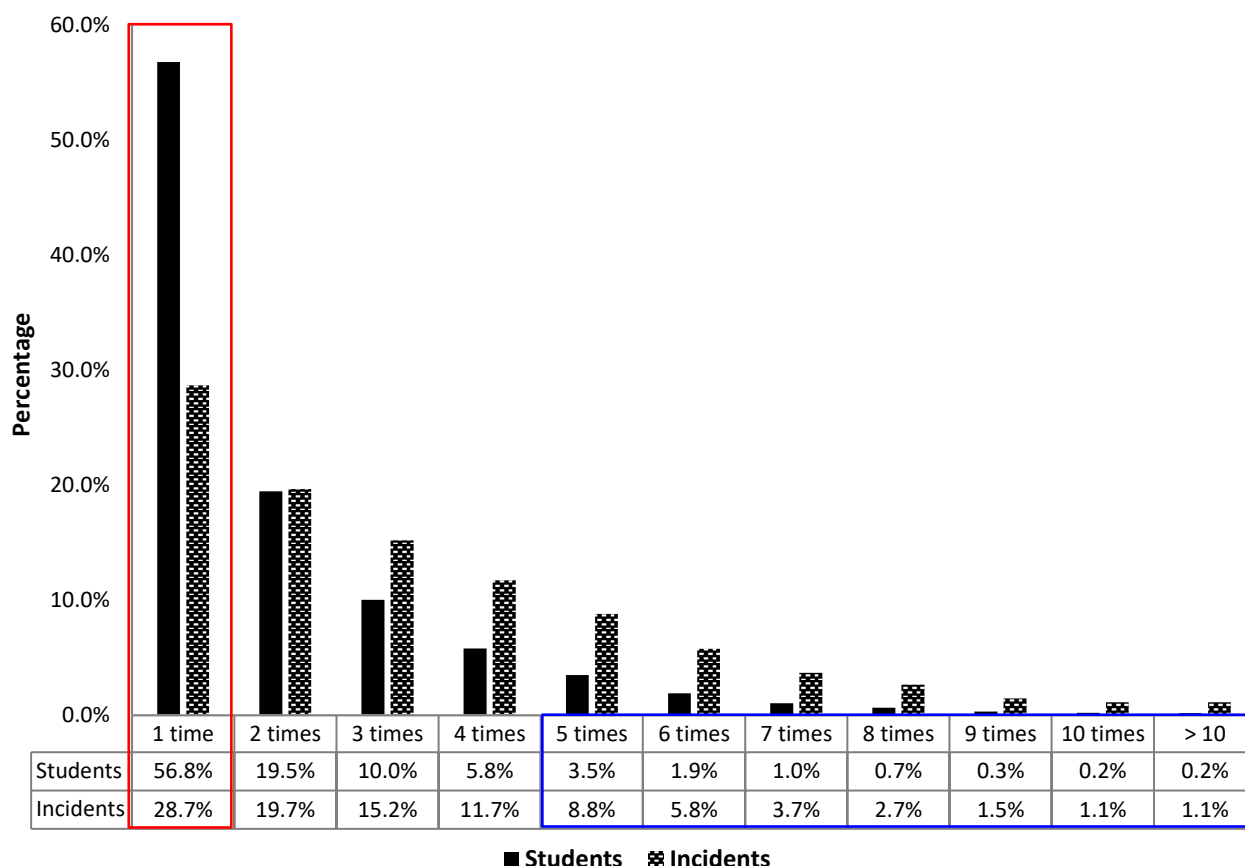


Figure 7.11. Percentage of students per number of times suspended compared to the percentage of incidents each group represents, in 2019. Source: SA Department for Education data collections, unpublished, September 2020.

At the other end of the spectrum is the much smaller group of students (7.8% of students suspended) who received five or more suspensions (blue outline). While much smaller, this group of students accounted for almost as many suspensions (24.7%) as the much larger group that received only one suspension.

Note also that 71.3% of suspensions in 2019 were repeat suspensions. Together, these patterns point to the ineffectiveness of suspension as means to achieve behavioural change.

### 7.3.5 Reasons for suspension

As noted earlier, the 71 behaviour codes used to classify reasons for take homes, suspensions, and exclusions were re-classified into 11 categories (Table 7.3) for ease of analysis. Each category is then unpacked in the text to examine the types of incidents characterising that category and their relative prevalence.

Table 7.3. Reasons for Suspensions recoded into 11 categories, in order of prevalence for 2019

Reasons for Suspension (in order of prevalence)		
1.	Physical Acts that Harm Others (Minor)	36.6%
2.	School Rules Violations	29.5%
3.	Bullying and Harassment (inc. cyber)	9.1%
4.	Written and Verbal Threats	7.0%
5.	Disengaged Behaviours	5.6%
6.	Disruptive Behaviour	4.2%
7.	Property Destruction (exc. Arson)	2.3%
8.	Physical Acts that Harm Others (Major and/or with a weapon)	2.2%
9.	Drugs	1.8%
10.	Other Criminal Acts (Theft and Arson)	1.2%
11.	Sexual Acts and Behaviours	0.6%

Source: SA Department for Education data collections, unpublished, September 2020.

### 7.3.6 Unpacking the Reasons for Suspensions

(1) *Physical Acts that Harm Others (Minor)*. There were 7,426 suspensions in the ‘Physical Acts (Minor)’ category in 2019, accounting for 36.6% of total suspensions. Within this reason category are three sub-categories that document parties to the incident: students, a staff member, or ‘other’. More than four in five suspensions issued in this category (83.2%) were for incidents involving other students.

(2) *School Rules Violations*. There were 5,980 suspensions in the ‘School Rules Violations’ category in 2019, accounting for 29.5% of total suspensions. This category includes eight of the 10 SA Department for Education ‘Not following school behaviour code’ reasons; e.g., being out of bounds, not completing a consequence, defiant manner of questioning, non-compliance with reasonable instructions, misuse of property, and verbal abuse towards a staff member, student or other. Of these, ‘non-compliance with reasonable instructions’ accounted for the most suspensions in this category (42.8%).

(3) *Bullying and Harassment (including cyberbullying)*. There were 1,847 suspensions in the ‘Bullying and Harassment (inc. cyber)’ category in 2019, accounting for almost one in 10 of all suspensions (9.1%). ‘Physical bullying’ accounted for the most suspensions with 33.9% in the ‘Bullying and Harassment’ category. ‘Bullying – Verbal or Written’ accounted for 22.5% of suspensions. It is not clear from the data what distinguishes incidents in this category from ‘Written and Verbal Threats’.

(4) *Written and Verbal Threats (including threatening gestures both with and without a weapon)*. There were 1,424 suspensions in this category in 2019, accounting for 7.0% of all suspensions. Unlike ‘Physical Acts that Harm Others’, no detail is available as to who these threats were made to, which makes it difficult to discern the nature of the behaviours in this category. ‘Written and Verbal Threats’ accounted for the most suspensions in this category (43.2%) followed by ‘Threatening Gestures’ (33.7%).

(5) *Disengaged behaviours*. There were 1,133 suspensions in the disengaged behaviours category, accounting for just over one in 20 of all suspensions (5.6%) in 2019. It is important to note that coded into this category are school avoidance behaviours that are *reinforced* by suspension: off-task behaviour, work avoidance, avoiding completing tasks both in class and at home, not attending to instruction, missing class and leaving school grounds. The latter two

reasons accounted for almost three in every four suspensions (71.3%) in the 'disengaged behaviours' category.

(6) *Disruptive behaviour*. There were 847 suspensions in the disruptive behaviour category, accounting for 4.2% of total suspensions in 2019. Coded into the disruptive behaviour category are making noises, being uncooperative or antisocial, and unwanted (non-sexual) touching. Antisocial behaviours are the most common, accounting for 64.0% of suspensions in the disruptive behaviour category.

(7) *Property destruction (excluding arson)*. There were 462 suspensions in this category, representing 2.3% of total suspensions in 2019. The property destruction category includes graffiti, vandalism, and property damage. Of these three sub-categories, 'property damage' accounted for the most suspensions with 72.3% of the 'Property destruction' category.

(8) *Physical Acts that Harm Others (Major and/or with a Weapon)*. There were 449 suspensions in this category, accounting for just 2.2% of total suspensions in 2019. The 'Physical Acts (Major)' category includes six subcategories of which 'Actual Violence using a Weapon–Furniture' is the most common with 31.4% of suspensions in the Major Physical Acts category. 'Physical Assault/Major (requiring professional medical treatment)' against another student accounted for 25.6%. Similar incidents involving a staff member accounted for 10.7% of suspensions in this category. To put these percentages into perspective, there was a total of 141 incidents involving students and a total of 48 incidents involving staff in 2019.

(9) *Drugs*. There were 366 suspensions for drugs, accounting for 1.8% of total suspensions in 2019. Tobacco/smoking and alcohol together accounted for 53.0% of these suspensions, while cannabis and inhalants accounted for another 25.4%. All other suspensions in the 'Drugs' category (21.6%) were issued for possession and use of drugs (or controlled substances with or without a prescription) and drug equipment. Note that there were less than six suspensions issued for ice, crystal or speed and less than six suspensions for MDMA or ecstasy, which suggests that very few young people are bringing, using, or dealing these types of drugs in schools.

(10) *Other Criminal Acts (Theft and Arson)*. There were 241 suspensions for theft and arson, accounting for 1.2% of total suspensions in 2019. Incidences of theft accounted for four in five suspensions in the 'Theft and Arson' category with 83.8% of suspensions. Arson accounted for 16.2% of suspensions in this category.

(11) *Sexual Acts and Behaviours*. There were 128 suspensions in this category, accounting for 0.6% of total suspensions in 2019. 'Sexual Behaviour–Problematic' accounted for the largest number of suspensions in the 'Sexual Acts and Behaviours' category with 55.5% of suspensions. Examples of 'Sexual Behaviour–Problematic' include students accessing pornographic material on an iPad, exposing themselves, making sexualised comments or engaging in sex.

### 7.3.7 Reasons for suspension by school phase

Disaggregation by school phase reveals distinct differences in the suspensions received by primary and secondary school students (Table 7.4). The most common reason for suspension among primary school students is 'Physical Acts that Harm Others (Minor)' with almost one in two primary school suspensions falling into this category. By contrast, only one in five secondary students received a suspension for this reason, suggesting the possible involvement of

developmental factors, like maturity and self-regulation, in the rate of incidence in ‘Physical Acts (Minor)’. Interestingly, the distribution of these two categories is transposed in the secondary phase of schooling with ‘School Rules Violations’, replacing ‘Physical Acts that Harm Others (Minor)’ as the most common reason for suspension among secondary school students.

Table 7.4. Reasons for suspension disaggregated by school phase as a percentage of total incidents in 2019

Reasons for Suspension (in alphabetical order)	Primary	Secondary
1. Bullying and Harassment (inc. cyber)	7.4%	11.2%
2. Disruptive Behaviour	3.6%	4.9%
3. Disengaged Behaviour	3.4%	8.3%
4. Drugs	0.3%	3.8%
5. Other Criminal Acts (Theft and Arson)	0.8%	1.7%
6. Physical Acts that Harm Others (Major and/or with a weapon)	3.0%	1.2%
7. Physical Acts that Harm Others (Minor)	<b>48.6%</b>	<b>21.3%</b>
8. Property Destruction (exc. Arson)	2.3%	2.3%
9. School Rules Violations	<b>22.7%</b>	<b>38.1%</b>
10. Sexual Acts and Behaviours	0.8%	0.4%
11. Written and Verbal Threats	7.2%	6.8%

Source: SA Department for Education data collections, unpublished, September 2020.

Other indicators that developmental factors may be at play are differences in the percentages of suspensions received by primary and secondary school students for ‘Sexual Acts and Behaviours’ and ‘Physical Acts that Harm Others (Major and/or with a weapon)’. A higher percentage of primary school suspensions were in these two categories than secondary school suspensions. Again, the most common incidents in these categories were ‘Sexual Behaviour–Problematic’ (e.g., exposing genitalia), and ‘Furniture’ (e.g., overturning a desk or chair) for ‘Physical Acts that Harm Others (Major and/or with a weapon)’.

### 7.3.8 Changes over time: Primary Suspensions

Reasons for suspension data is only available from 2013 through 2019. As shown in Figure 7.12, the percentage of suspensions issued to primary school aged students for ‘Minor Physical Acts that Harm Others (Minor)’, and ‘Written/Verbal Threats’ have each increased over time, while the percentage attributable to ‘Bullying and Harassment’, ‘Disengaged Behaviour’ and ‘Rules Violations’ has decreased over time. Each of these increases and decreases was statistically significant (see Appendix B), reflecting a real change over time.

As with primary school take homes, these changes may reflect substitution between reason categories, particularly between ‘Bullying and Harassment’ and ‘Written and Verbal Threats’ following the ‘Review of procedures and processes in Department of Education and Children’s Services (DECS) related to bullying and violence in schools’ (Cossey, 2011).

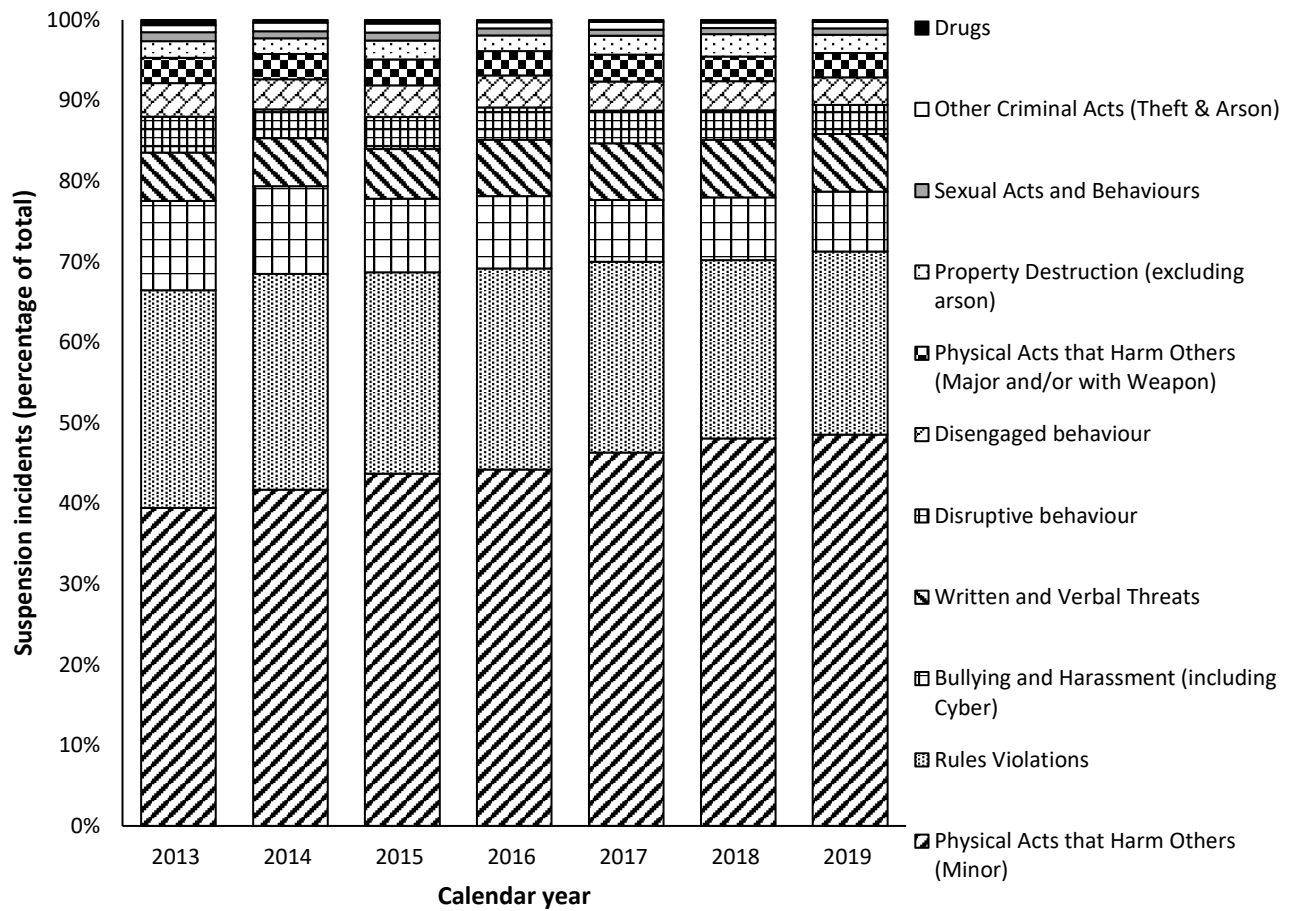


Figure 7.12. Reasons for primary school suspensions as a percentage of total incidents over time, 2013-2019. Source: SA Department for Education data collections, unpublished, September 2020.



### 7.3.9 Changes over time: Secondary Suspensions

As shown in Figure 7.13, suspensions of secondary school students for ‘Rules Violations’ decreased between the years 2013 to 2019. At the same time, suspensions for ‘Other Criminal Acts (Theft or Arson)’, ‘Physical Acts that Harm Others (Minor)’, and ‘Written and Verbal Threats’ increased. These increases and decreases were statistically significant (Appendix B), reflecting a real change over time.

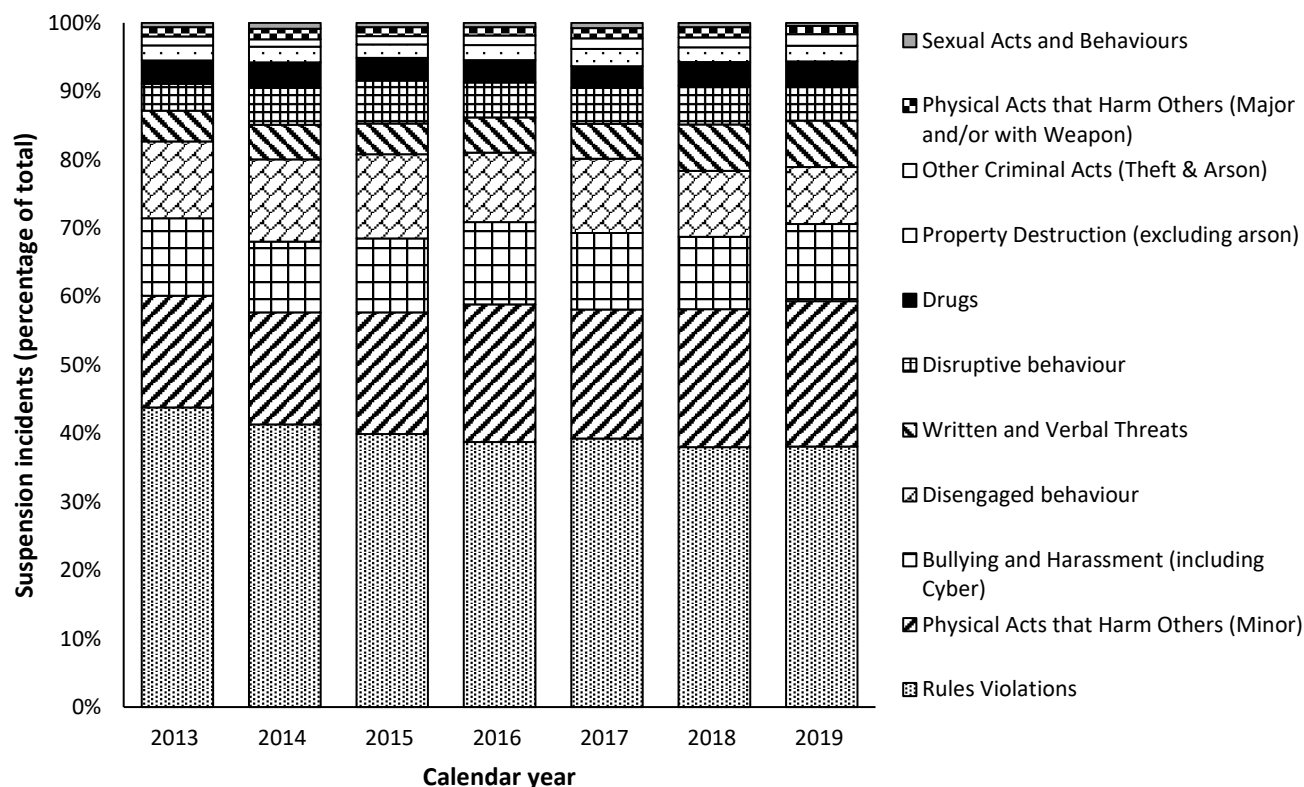


Figure 7.13. Reasons for secondary school suspensions as a percentage of total incidents over time, 2013-2019. Source: SA Department for Education data collections, unpublished, September 2020.

## 7.4 CASE-STUDY 3: SUSPENSIONS OVER THE LEGISLATIVE THRESHOLD

The *Education and Children's Services Act 2019* (SA) states that a student (i) cannot be suspended for more than 15 school days in a calendar year, or (ii) on more than four separate occasions in a calendar year, unless authorisation is provided by the Chief Executive (section 76(3); previously *Education Regulations 2012* (SA) s. 44(2)). While not explicitly stated in the legislation or the current SEE Procedures, we were advised that the authority to approve a suspension above these legislative thresholds is delegated to Education Directors.

### 7.4.1 Students suspended more than 15 days

During 2019, 278 students were each suspended for more than 15 days in total, when combining each of their suspension incidents throughout the year. Over two-thirds (67.6%) of these students were attending Category 1-3 schools. The majority were in high school (38.1%), with the most frequent age group being 14-years-old (16.2%). One in five of these students (20.5%) was Aboriginal and nearly one in ten (9.4%) was in care.

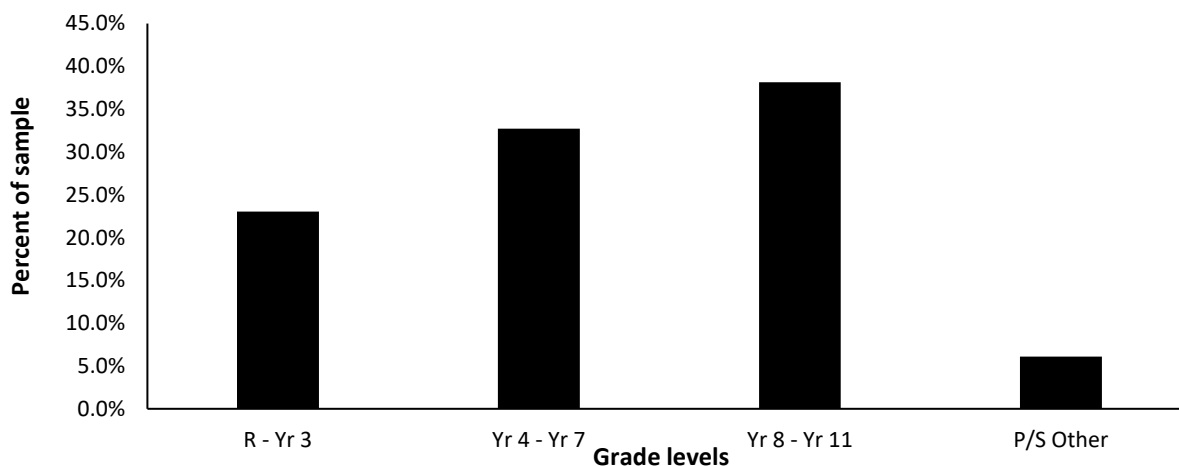


Figure 7.14. Grade/year level distribution of the 278 students who were suspended more than 15 days in 2019. Source: SA Department for Education data collections, unpublished, September 2020.

The majority of the students suspended for more than 15 days in total (223; 80.2%) were recorded as receiving an adjustment for disability according to the Nationally Consistent Collection of Data (NCCD).

For these 223 students, the category of adjustment was primarily Social/Emotional (59.6%) or Cognitive (38.1%), with the remainder in Sensory or Physical categories (2.2%). Most students were indicated as receiving adjustments at either the Extensive (30.0%), Substantial (30.5%), or Supplementary levels (28.3%), with the remaining 11.2% (n = 25) receiving no adjustments beyond those provided within Quality Differentiated Teaching Practice.

Over one third were in receipt of IESP funding (105; 37.8%), mostly in the category of Speech/Language Impairment (30.5%), followed by Autism Spectrum Disorder (28.6%), Complex Social/Emotional/Behavioural Needs (21.0%), and Intellectual Disability (13.3%), with the remaining students recorded variously under the categories: Communication (Early Intervention), Global Development Delay, and Hearing (6.7%).

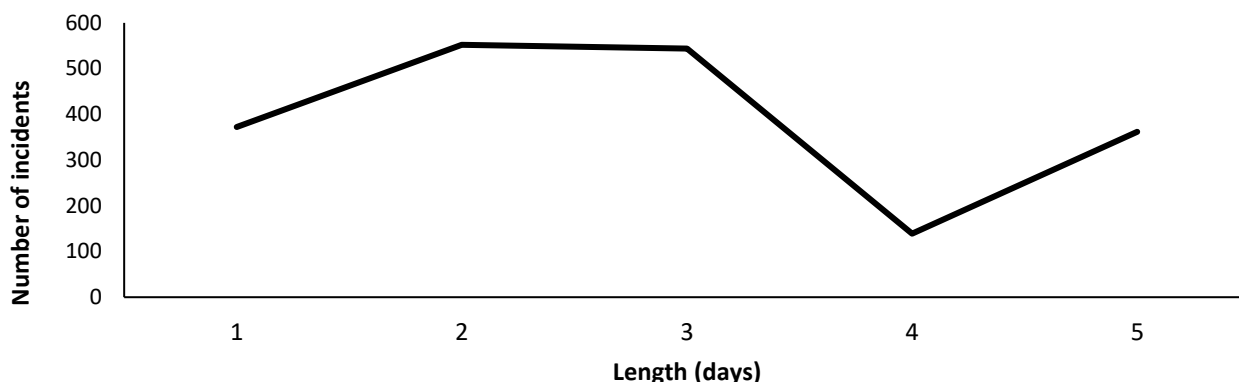


Figure 7.15. Length of suspensions of the 278 students who were suspended more than 15 days in 2019. Source: SA Department for Education data collections, unpublished, September 2020.

Figure 7.16 displays the reasons for suspension incidents, ordered by frequency. The majority of incidents were for Minor Physical Acts (38.1%) followed by Rules Violations (32.2%). Written and Verbal Threats accounted for 9.1%, Bullying and Harassment 6.6%, and Disengaged Behaviour 4.8%. Other categories of suspension (Disruptive Behaviour, Property Destruction, Major Physical Acts, Drugs, Other Criminal Acts, and Sexual Acts) together accounted for below one in ten suspension incidents (9.2%).

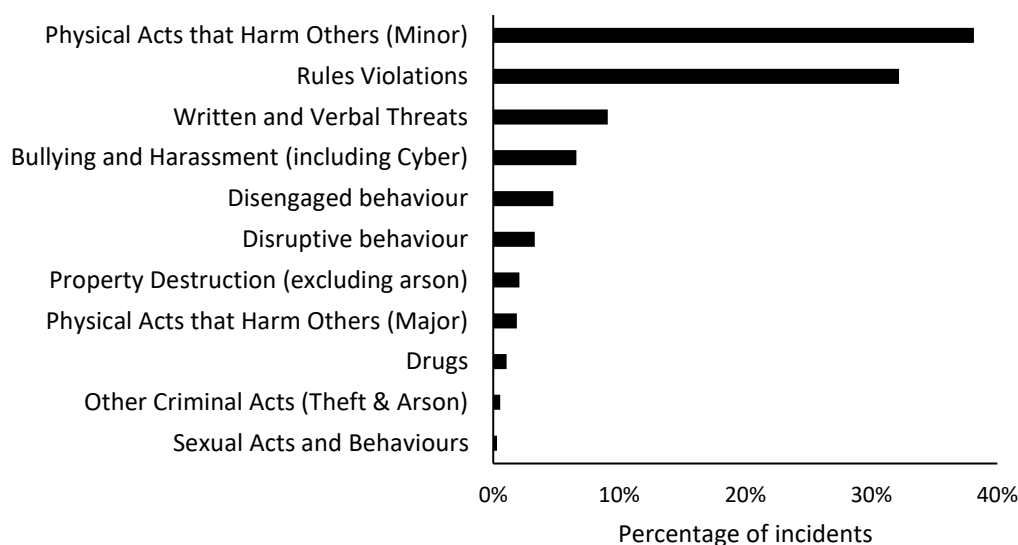


Figure 7.16. Reasons for suspension for the 278 students who were suspended more than 15 days in 2019. Source: SA Department for Education data collections, unpublished, September 2020.

Together, these 278 students received 1,969 suspension incidents; that is, an average of 7.1 suspensions per student, with individual students being issued between 4 and 14 suspensions throughout the year. Individual suspension incidents averaged 2.8 days in length, most commonly occurring for 2 days, followed by 3- and 5-day suspensions (Figure 7.15).

However, when considering the total number of days suspended, most of these students were out of school for 16-19 days (61.9%), which is approximately 3 to 4 weeks of school. Over one third (35.3%) were suspended for a total of 20-29 days, or between 4 and 6 weeks of school. Finally, eight of these students (2.9%) were suspended for 30 or more days in total, missing at least six weeks of school throughout the year.

#### 7.4.2 Students suspended on more than 4 separate occasions

In 2019, 804 students were suspended more than 4 times. On average, these students were suspended 6.2 times each, accounting for a total of 5,014 incidents between them. This means that 1,798 of the suspensions issued were beyond the legislative threshold of 4 suspensions per student in a calendar year.

Over one in five (22.0%) of the students was Aboriginal, and 7.3% were in care. Students were predominantly from disadvantaged schools in Categories 1-3 (67.7%), and mostly in upper primary school (see Figure 7.17), with the most frequently represented student age being 11 years old (13.4%).

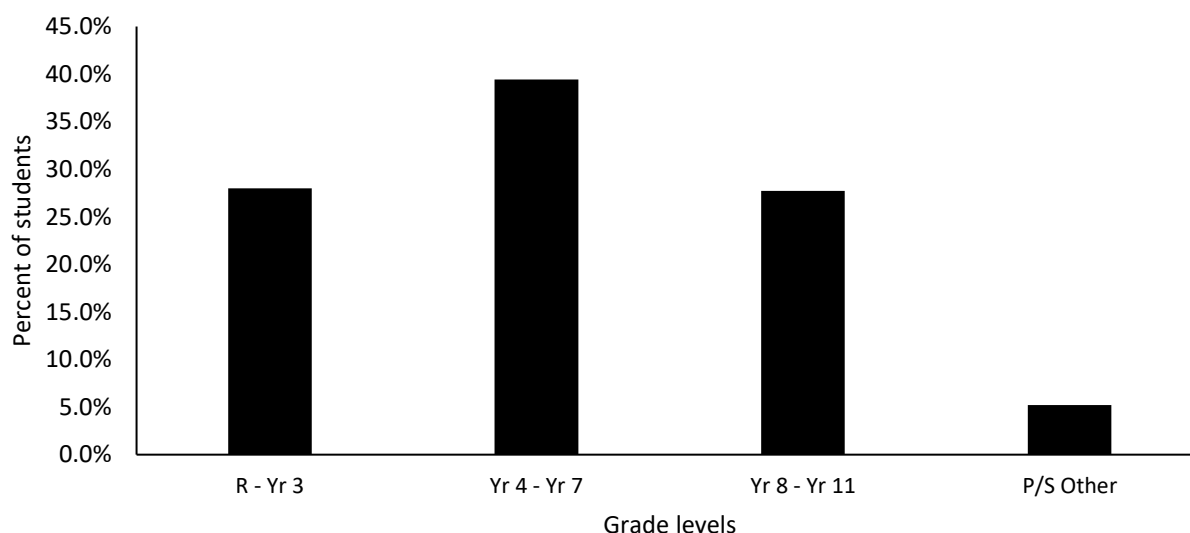


Figure 7.17. Grade/year level distribution of the 804 students who received more than 4 suspensions in 2019. Source: SA Department for Education data collections, unpublished, September 2020.

Most of the students were indicated as having a disability according to the NCCD (80.5%). Of these 647 students with a disability, 27.4% received Extensive adjustments, 31.1% received Substantial adjustments, and 30.8% received Supplementary adjustments. The remaining students (10.8%) received no adjustments beyond that provided within Quality Differentiated Teaching Practice.

Just over one third (38.6%) of students received IESP funding, mostly for Autism Spectrum Disorder (32.6%), Speech/Language Impairment (27.1%), and Complex Social/Emotional /Behavioural needs (21.9%). Other categories included Intellectual Disability (12.3%), Global Developmental Delay (3.5%), and Hearing (1.9%), with the remaining 0.6% being accounted for by Communication (Early Intervention), Cognitive Delay (Early Intervention), or Physical.

Individual suspension incidents averaged 2.2 days in duration; however, together these incidents represent a total of 11,056 days missed from school during the year 2019, for these students combined.

Figure 7.18 displays the reasons for suspension, showing that most incidents (38.4%) were for Minor Physical Acts, followed by Rules Violations (31.5%), Written and Verbal Threats (8.0%), and Bullying and Harassment (7.3%). Together, the remaining categories (as displayed in Figure 7.18) counted for 14.8% of incidents.

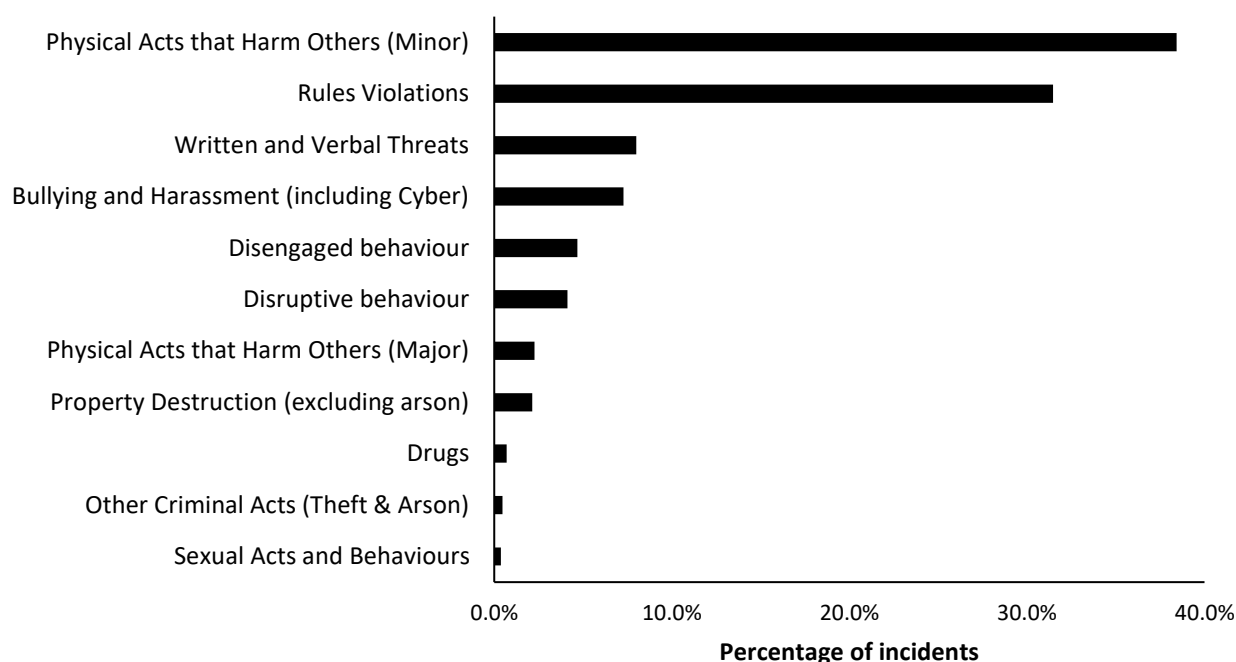


Figure 7.18. Reason for suspensions for the 804 students who received more than 4 suspensions in 2019. Source: SA Department for Education data collections, unpublished, September 2020.

### 7.4.3 Summary

At some point in each of these cases, the EDSAS alert to gain permission from an Education Director (as delegates of the Chief Executive) should have been triggered. However we heard from a number of SA Department for Education staff, including those in leadership positions, who indicated they were not aware of the statutory thresholds for repeat suspensions and exclusions. While some were aware of these thresholds, they advised that they had not observed any instances where the approval process for going beyond the statutory thresholds had actually occurred. Some explicitly indicated that they suspect that the approval process often does not occur, as while EDSAS prompts users to seek approval when proposing to suspend or exclude a student above the statutory thresholds, this prompt is simply a prompt, is not a mandatory action required to be completed before recording a suspension or exclusion, and therefore is easily overridden. This suggests that the alert is failing to serve its purpose and that the safeguard that has been written into the legislation is failing to trigger the review of the supports being provided (or not) to these students that is necessary to ensure more positive outcomes.

## 7.5 CASE-STUDY 4: STUDENTS WITH MORE THAN 10 SUSPENSIONS IN ONE SCHOOL YEAR

The Inquiry team requested data from the SA Department for Education Data Unit to enable us to learn more about the 42 students who received 10 or more suspensions in 2019. The sample is skewed towards the early years of school (Figure 7.19) with a slightly higher proportion (40.5%) in Reception to Year 3 than in the upper primary (Yr 4–Yr 7, 35.7%) or junior secondary phases of school (Years 8–10, 16.7%). A small proportion was enrolled in segregated special education settings (7.1%).

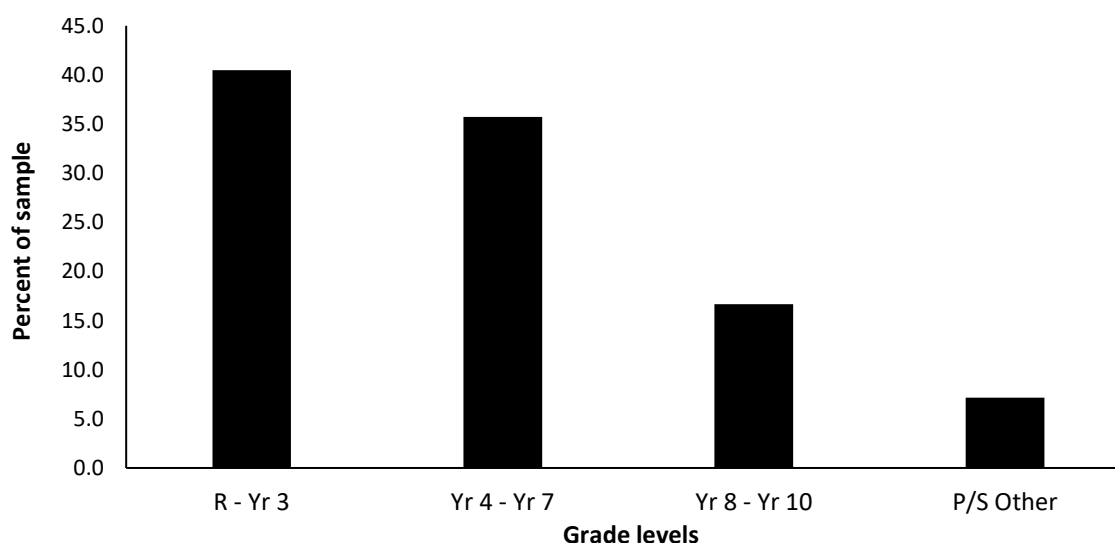


Figure 7.19. Grade/year level distribution of the 42 students who received more than 10 suspensions in 2019. Source: SA Department for Education data collections, unpublished, September 2020.

Of the 42 students who received more than 10 suspensions in the 2019 school year, nine were Aboriginal (21.4%), six were children in care (14.3%) and three in four were attending disadvantaged schools (76.2% in Category 1-3 schools).

Thirty-seven of the 42 students (88.1%) were recorded as receiving adjustments for disability in the NCCD. Just over one in three of these students (37.8%) was recorded as receiving the highest level of adjustments in NCCD, known as Extensive Adjustments. Another 35.1% were recorded as receiving Substantial Adjustments, and 21.6% received Supplementary Adjustments. Three quarters (75.7%) received adjustments in the 'social/emotional' category, 21.6% received adjustments in the 'cognitive' category, and the remainder received adjustments in the 'sensory' category. Students not receiving any adjustments beyond those provided within Quality Differentiated Teaching Practice accounted for 5.4%.

Twelve students were listed as receiving individually targeted support through IESP (28.6%), for disabilities including autism spectrum disorder, global developmental delay, intellectual disability, speech/language, and complex social/emotional/behavioural needs. As fewer than 6 students were identified in these categories, percentages are not available.

This tiny group of 42 students constitutes just 0.02% of the total number of students enrolled in South Australian government schools, yet they received 2.3% of all suspensions in 2019. In

total, the group received 458 suspensions between them, averaging 10.9 suspensions per year per student. On average, these suspensions had a duration of 2.2 days. However, when taking into account both exclusions and suspensions, these students accumulated a total of 1,244 days missed from school over the course of the school year, with an average of 29.6 days per student.

As with take homes, ‘Rules Violations’ (e.g., being out of bounds, not following instructions) and ‘Minor Physical Acts’ together account for more than two-thirds of the 458 suspensions received by these 42 students, although the order is reversed with more suspensions for Minor Physical Acts than Rules Violations.

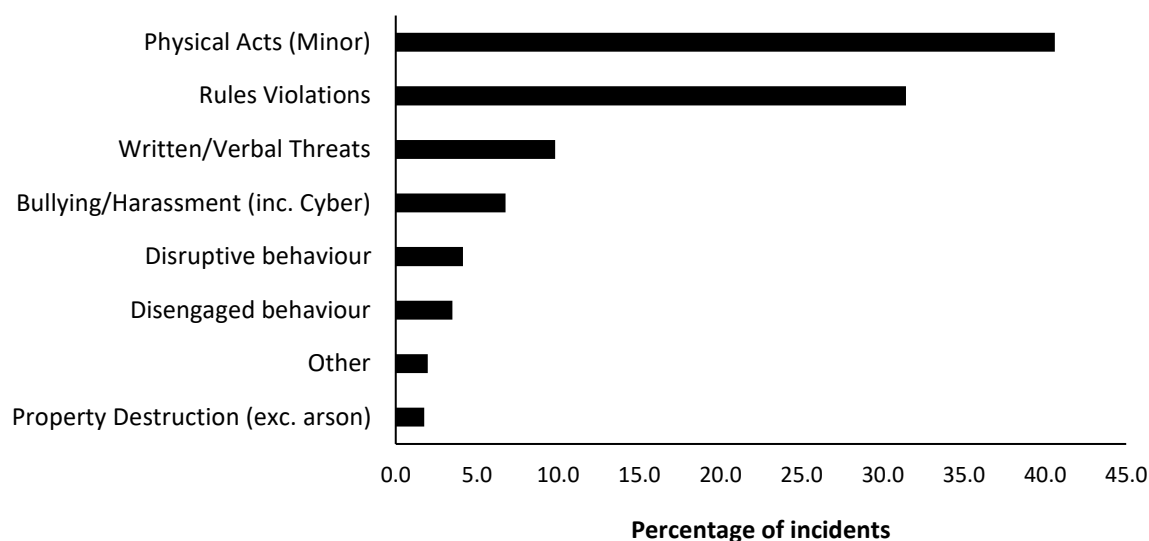


Figure 7.20. Reasons for the suspensions received by the 42 students with more than 10 suspensions in 2019. The category ‘Other’ comprises a very small number of suspensions for Physical Acts (Major), Other Criminal Acts (Theft & Arson), and Drugs. There were no suspensions for Sexual Acts and Behaviours.

As noted earlier, s. 76(3) of the *Education and Children’s Services Act 2019* (SA) (previously s. 44(2) of the *Education Regulations 2012* (SA)) requires principals to seek the permission of the Chief Executive to suspend a child more than four times in a school year, however, the Procedures for Suspension, Exclusion and Expulsion of Students notes that this authority is delegated to Education Directors.

Assuming that applications for permission are always made, these data suggest that permission has been granted 290 times in the 2019 school year for this tiny sample of 42 students alone. The requirement for permission to suspend beyond the threshold of four suspensions in a school year should trigger a system-level review of how the school is supporting the student, otherwise it is unclear why the threshold exists. Evidence showing these 42 students have been suspended 290 times beyond the threshold, suggests that procedure is not being followed, and that the permission threshold is failing to achieve its critical purpose of triggering a review of the schools’ support of vulnerable students.

This failure is to the detriment of many children, in addition to the 42 we have focused on here, as children being suspended are likely to be experiencing other forms of exclusionary discipline, including take homes and exclusions. We adopt a retrospective longitudinal approach to examine this phenomenon in *Case Study 5: Exclusions*.

## 7.6 EXCLUSION

As per s. 77(3) of the *Education and Children's Services Act 2019* (SA) (previously s. 45 of the *Education Regulations 2012* (SA)), exclusions are generally between four weeks (may be fewer if for the remainder of the school term) and 10 weeks (or longer if for the rest of the school term) in duration. Students may be excluded from school for persisting with the same sort of behaviour that leads to suspension or for more serious behaviour.

For students above compulsory school age (16 years), the maximum length of exclusion in the previous *Education Regulations 2012* (SA) was the remainder of the semester, however, this has been removed in the new *Education and Children's Services Act 2019* (SA). Under s. 77(5) of the *Education and Children's Services Act 2019* (SA) (previously s. 44(2)(b) of the *Education Regulations 2012* (SA)), "a student cannot (except with the authorisation of the Chief Executive) be excluded from attendance at the school ... for more than 20 weeks in a calendar year."

### 7.6.1 Prevalence and use

Overall, exclusions declined in the 10-year period between 2010 and 2019. Figure 7.21 shows that this decline was more evident in secondary than primary. Like suspensions, exclusions are more prevalent in secondary school and generally peak in Year 9 (except in 2014, where they peaked in Year 8).

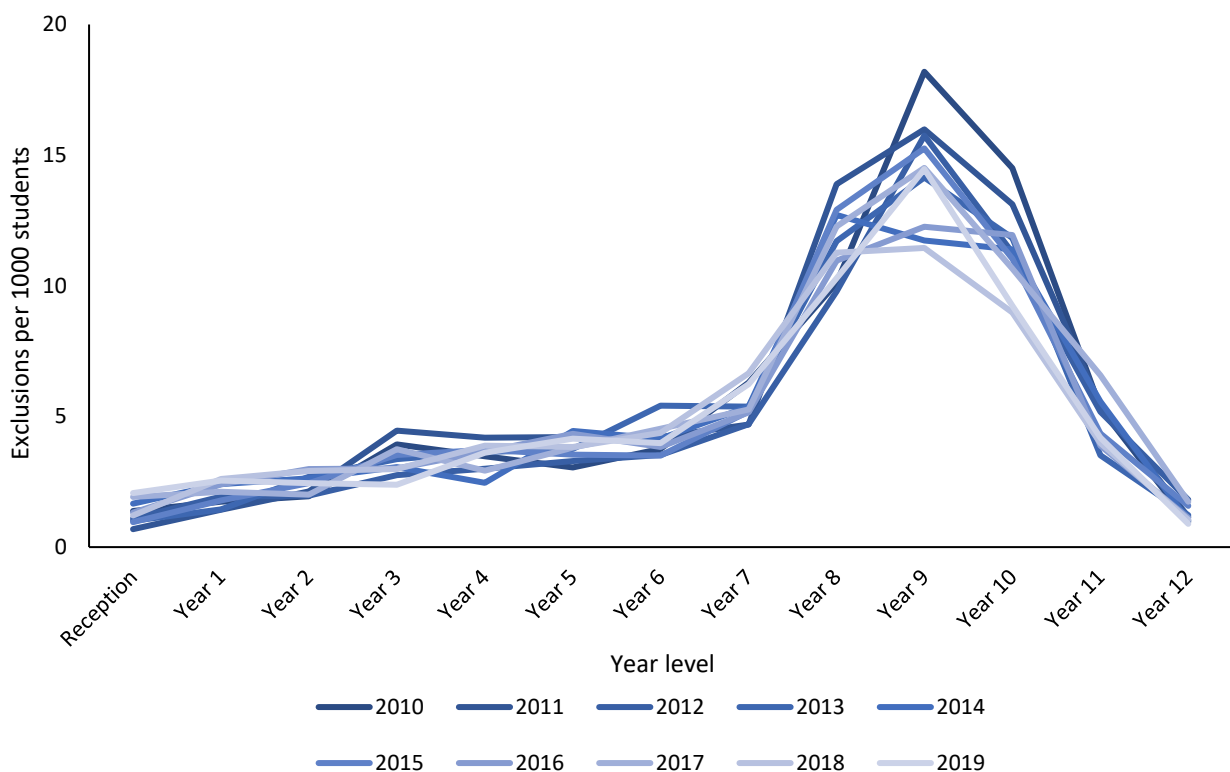


Figure 7.21. Exclusions per 1000 students by year level, 2010 to 2019. Source: SA Department for Education data collections, unpublished, September 2020.



### 7.6.2 Length of exclusion

Length of exclusion is displayed in Figure 7.22, for calendar years 2016 to 2019, and shows there was typically a peak in exclusions for lengths of 4 weeks and 8 weeks. In 2016, the later peak was for 9-week exclusions.

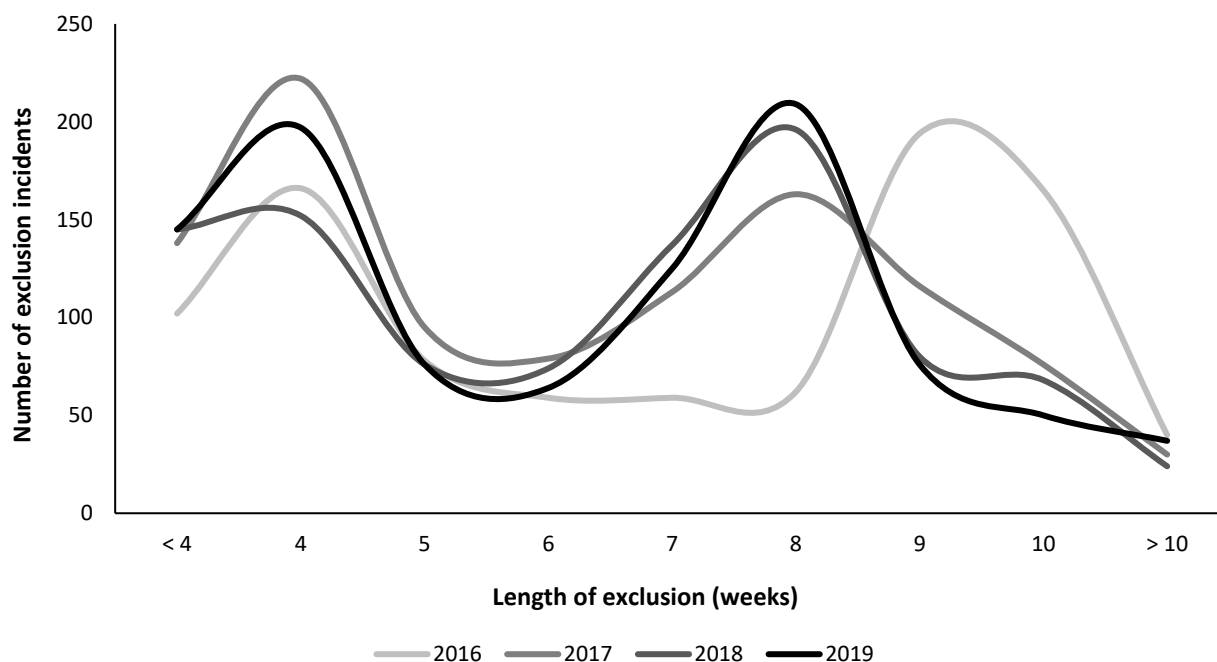


Figure 7.22. Number of exclusion incidents by length of exclusion in weeks, 2016-2019. Source: SA Department for Education data collections, unpublished, September 2020.

Figure 7.23 displays the breakdown for each category of exclusion duration by reason. It is notable that the highest proportion of exclusions issued for 10 or more weeks were for Physical Acts (Minor). Three reason categories are collapsed into 'Other' (confidentialised) in this figure as fewer than six incidents were recorded within them (disruptive behaviour, other criminal acts, and sexual behaviours).

However, notwithstanding the low number of incidents, these categories were still represented across most exclusion length categories in 2019. Specifically, for the reason of disruptive behaviour, there were up to six exclusions in each length category across the year.

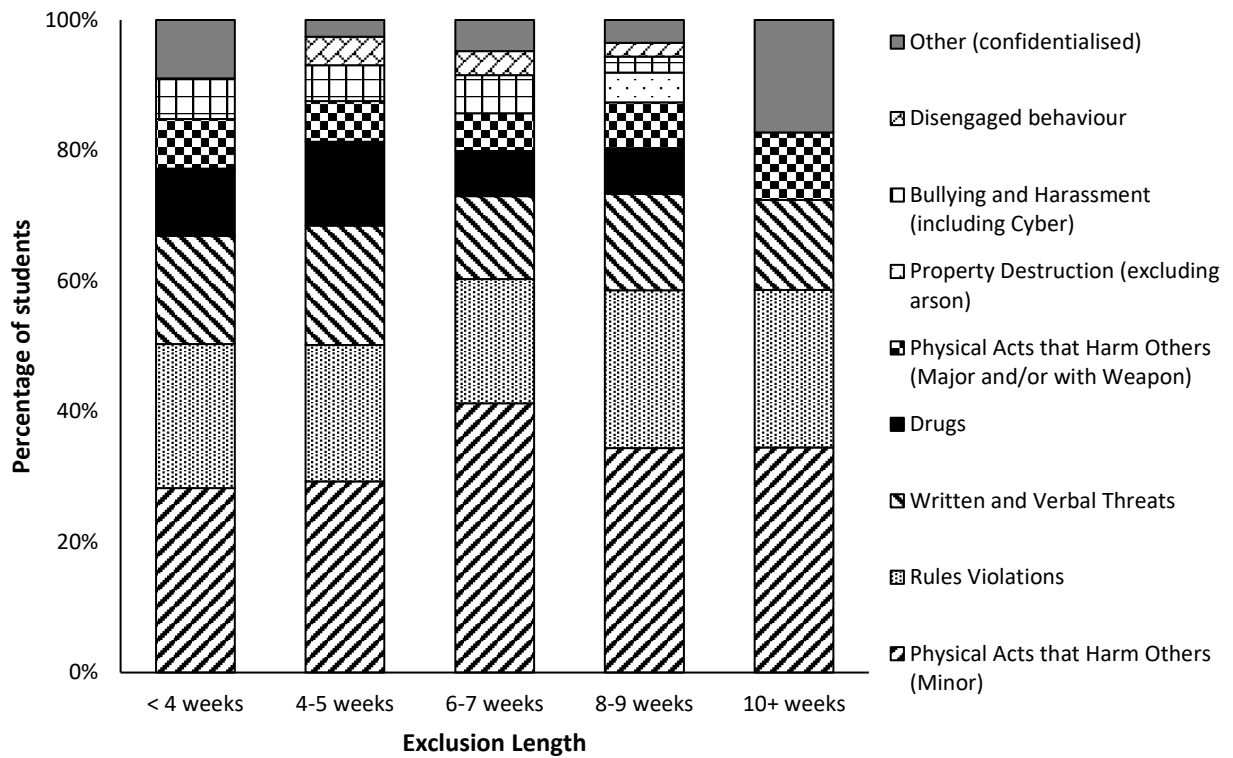


Figure 7.23. Percentage of exclusions according to Reason for Exclusion, for each Length category separately (<4 to 10+ weeks), calendar year 2019. Source: SA Department for Education data collections, unpublished, September 2020.

### 7.6.3 Frequency of exclusion

Although an exclusion was issued only once for most excluded students, a small proportion were excluded twice, or three or more times in each calendar year between 2010 and 2019 (see Figure 7.24). This trend was consistent over all calendar years.

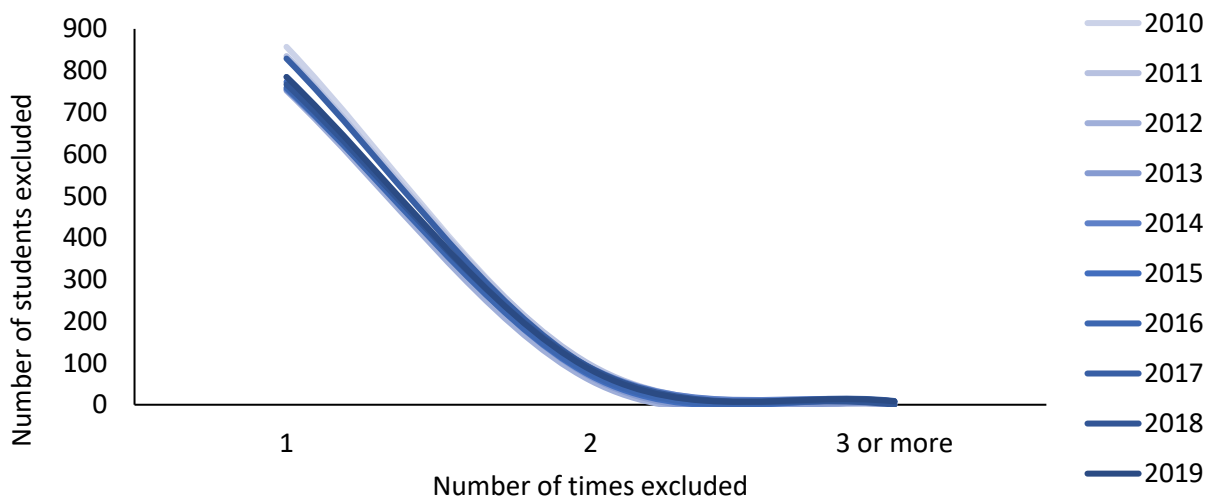


Figure 7.24. Number of students excluded by the number of times excluded in a calendar year, 2010-2019. Source: SA Department for Education data collections, unpublished, September 2020.

Of the students excluded more than once in 2019, 84 were excluded twice and eight were excluded more than three times in that one year. *Case-Study 5: Exclusions* (Section 7.7) investigates these 92 exclusions in more depth.

#### 7.6.4 Reasons for exclusion

As with take homes and suspensions, the 71 reasons codes were reclassified into 11 discrete categories to facilitate analysis (Table 7.5). Like suspensions, the two categories with the highest number of exclusions were ‘Physical Acts that Harm Others (Minor)’ and ‘School Rules Violations’. Coming higher in the order of prevalence for exclusions than for suspensions, however, was ‘Written and Verbal Threats’, ‘Drugs’, and ‘Physical Acts that Harm Others (Major and/or with a weapon)’.

Lower in the order of prevalence were ‘Bullying and Harassment (inc. cyber)’, ‘Disengaged’ and ‘Disruptive’ behaviours. The breakdown for 2019 is displayed in Table 7.5. Each category is then unpacked in the text to examine the types of incidents relevant and their relative prevalence.

Table 7.5. *Reasons for exclusions recoded into 11 subcategories, in order of prevalence for 2019*

Reasons for Exclusion (in order of prevalence)		
1.	Physical Acts that Harm Others (Minor)	33.4%
2.	School Rules Violations	22.0%
3.	Written and Verbal Threats	15.5%
4.	Drugs	9.0%
5.	Physical Acts that Harm Others (Major and/or with a weapon)	6.9%
6.	Bullying and Harassment (inc. cyber)	4.5%
7.	Property Destruction (exc. Arson)	2.9%
8.	Disengaged Behaviours	2.9%
9.	Disruptive Behaviour	1.5%
10.	Sexual Acts and Behaviours	1.0%
11.	Other Criminal Acts (Theft and Arson)	-

Note. There were less than six incidents in ‘Other Criminal Acts (Theft and Arson)’ in 2019.

Source: SA Department for Education data collections, unpublished, September 2020.

#### 7.6.5 Unpacking the Reasons for Exclusion

1. *Physical Acts that Harm Others (Minor)*. There were 327 exclusions in the ‘Physical Acts (Minor)’ category in 2019, accounting for 33.4% of total exclusions. Within this reason category are three sub-categories that document parties to the incident: students, a staff member, or ‘other’. Almost three in four exclusions in this category (74.3%) were for incidents involving other students.

2. *School Rules Violations*. There were 215 exclusions in the ‘School Rules Violations’ category in 2019, accounting for 22.0% of total exclusions. This category includes eight of the 10 SA Department for Education ‘Not following school behaviour code’ reasons: being out of bounds, not completing a consequence, defiant manner of questioning, non-compliance with reasonable instructions, misuse of property, and verbal abuse towards a staff member, student or other. Of these, ‘non-compliance with reasonable instructions’ accounted for the most exclusions in this category (55.8%).

3. *Written and Verbal Threats (including threatening gestures both with and without a*

weapon). There were 152 exclusions in this category in 2019, accounting for 15.5% of all exclusions. 'Threatened violence – Written and Verbal Threats' accounted for the most exclusions in this category (43.4%) followed by 'Threatening Gestures' with 30.3%.

4. *Drugs*. There were 88 exclusions for drugs, accounting for 9.0% of total exclusions in 2019. Cannabis (oils, resins and plant material) accounted for 63.6% of these exclusions, while possession of drug equipment accounted for another 9.1%. There were less than six exclusions for 'any other controlled substances' which is the only category that could include hard drugs like ice, speed, cocaine, MDMA, or ecstasy, suggesting again that young people are not bringing, using or dealing these types of drugs in South Australian schools.

5. *Physical Acts that Harm Others (Major and/or with a Weapon)*. There were 68 exclusions in this category, accounting for 6.9% of total exclusions in 2019. The 'Physical Acts (Major)' category includes six subcategories of which 'Physical Assault/Major (requiring professional medical treatment – a student)' is the most common, accounting for 42.6% of exclusions in the Major Physical Acts category. 'Physical Assault/Major (requiring professional medical treatment)' against a staff member accounted for one in four exclusions in this category (25.0%). There were seven exclusions for physical assaults using a weapon (e.g., stick or knife).

6. *Bullying and Harassment (including cyberbullying)*. There were 44 exclusions in the 'Bullying and Harassment (inc. cyber)' category in 2019, accounting for less than one in 20 of all exclusions (4.5%). As with suspensions, these data should therefore be treated with caution as it is not clear what distinguishes incidents in this category from those in 'Written and Verbal Threats'. 'Physical bullying' accounted for the most exclusions with 31.8% in the 'Bullying and Harassment' category. 'Cyber Crime - Posting of images/video without permission e.g., Sexting' was the next most common with six exclusions (13.6%).

7. *Property destruction (excluding arson)*. There were 28 exclusions in this category, representing 2.9% of total exclusions in 2019. The property destruction category includes graffiti, vandalism, and property damage. Of these three sub-categories, 'property damage' accounted for the most exclusions with 75% of the 'Property destruction' category.

8. *Disengaged behaviours*. There were 28 exclusions in the disengaged behaviours category, accounting for 2.9% of all exclusions in 2019. Like suspension, this category is characterised by school avoidance behaviours that are *reinforced* by exclusionary discipline responses: off-task behaviour, work avoidance, avoiding completing tasks both in class and at home, not attending to instruction, missing class and leaving school grounds. Leaving school grounds and not attending to instruction together accounted for more than four in five exclusions (82.1%) in the 'disengaged behaviours' category.

9. *Disruptive behaviour*. There were 15 exclusions in the disruptive behaviour category, accounting for 1.5% of total exclusions in 2019. Coded into the disruptive behaviour category are making noises, being uncooperative or antisocial, and unwanted (non-sexual) touching. Antisocial behaviours are the most common, accounting for 60.0% of exclusions in the disruptive behaviour category.

10. *Sexual Acts and Behaviours*. There were 10 exclusions in this category, accounting for 1.0% of total exclusions in 2019.

11. *Other Criminal Acts (Theft and Arson)*. As there were less than 6 exclusions for theft and arson in 2019, these are not reported to preserve confidentiality.

### 7.6.6 Reasons for exclusion by school phase

Reasons for exclusion disaggregated by schooling phase are presented in Table 7.6. Of the 11 classifications, the highest percentage of total exclusion incidents in 2019 was accounted for by ‘Physical Acts that Harm Others (Minor)’, in both primary and secondary school, followed by ‘School Rules Violations’. However, it is worth observing that this percentage was much lower for secondary school, in comparison to primary school, perhaps reflecting a broader range of reasons for exclusion in the later schooling phase. Exclusions for drugs, for example, increases from 0.0% of exclusions in primary to 15.0% of exclusions in secondary. Interestingly, however, exclusions for disengaged behaviour account for a smaller proportion in secondary than in primary, despite the known developmental progression of student disengagement.

While these data should be treated with caution because exclusions, like suspensions, have declined in tandem with enrolments in FLO, they raise serious questions about the use of exclusion for incidents categorised as minor in primary schools. Children do not learn from being excluded and, unless addressed effectively in a timely way with evidence-based responses, minor behaviour can compound, becoming more severe over time. This pattern is investigated further in Case Study 5: Exclusions.

Table 7.6. Reasons for exclusion disaggregated by school phase as a percentage of total incidents in 2019

Reasons for Exclusion (in alphabetical order)	Primary	Secondary
1. Bullying and Harassment (inc. cyber)	3.1%	5.6%
2. Disengaged Behaviour	3.1%	2.7%
3. Disruptive Behaviour	0.0*	1.8%
4. Drugs	0.0*	15.0%
5. Other Criminal Acts (Theft and Arson)	0.0*	0.0*
6. Physical Acts that Harm Others (Major and/or with a weapon)	5.9%	7.7%
7. Physical Acts that Harm Others (Minor)	<b>42.2%</b>	<b>26.7%</b>
8. Property Destruction (exc. Arson)	2.1%	3.4%
9. School Rules Violations	25.0%	19.6%
10. Sexual Acts and Behaviours	0.0*	1.3%
11. Written and Verbal Threats	15.1%	15.9%

Note. Categories marked by \* have six or less exclusions and is not reported for confidentiality.

Source: SA Department for Education data collections, unpublished, September 2020.

### 7.6.7 Changes over time: Primary Exclusions

Reasons for exclusion data is only available from 2013 through 2019. As shown in Figure 7.25, the percentage of exclusions issued to primary school aged students for ‘Written/Verbal Threats’ has increased over time and this increase was statistically significant (see Appendix B), reflecting a real change over time. As with primary take homes and suspensions, this change may reflect substitution between the ‘Bullying and Harassment’ and ‘Written and Verbal Threats’ categories following improved definition of these behaviours as an outcome of the ‘Review of procedures and processes in Department of Education and Children’s Services (DECS) related to bullying and violence in schools’ (Cossey 2011). All data are sourced from the SA Department for Education data collections (unpublished, September 2020).

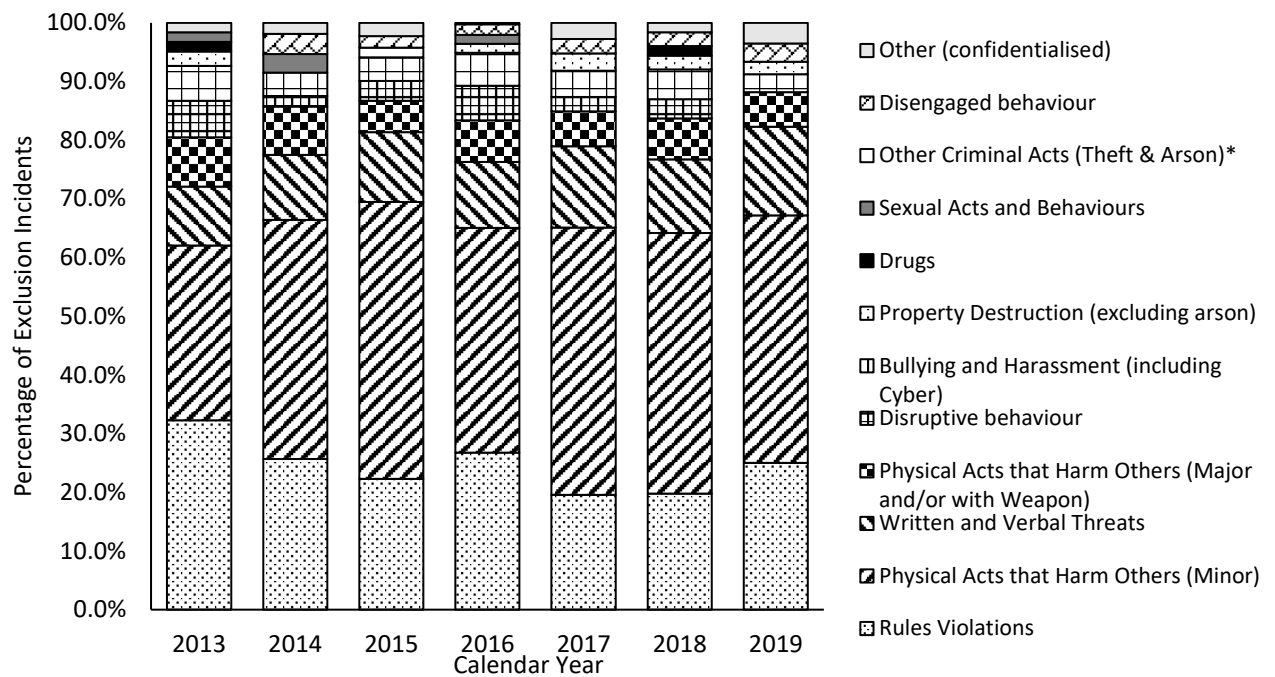


Figure 7.25. Reasons for primary school exclusions as a percentage of total incidents over time, 2013-2019.

### 7.6.8 Changes over time: Secondary

Increases and decreases in reasons for secondary school exclusions between 2013 and 2019 were small and none were statistically significant (Figure 7.26).

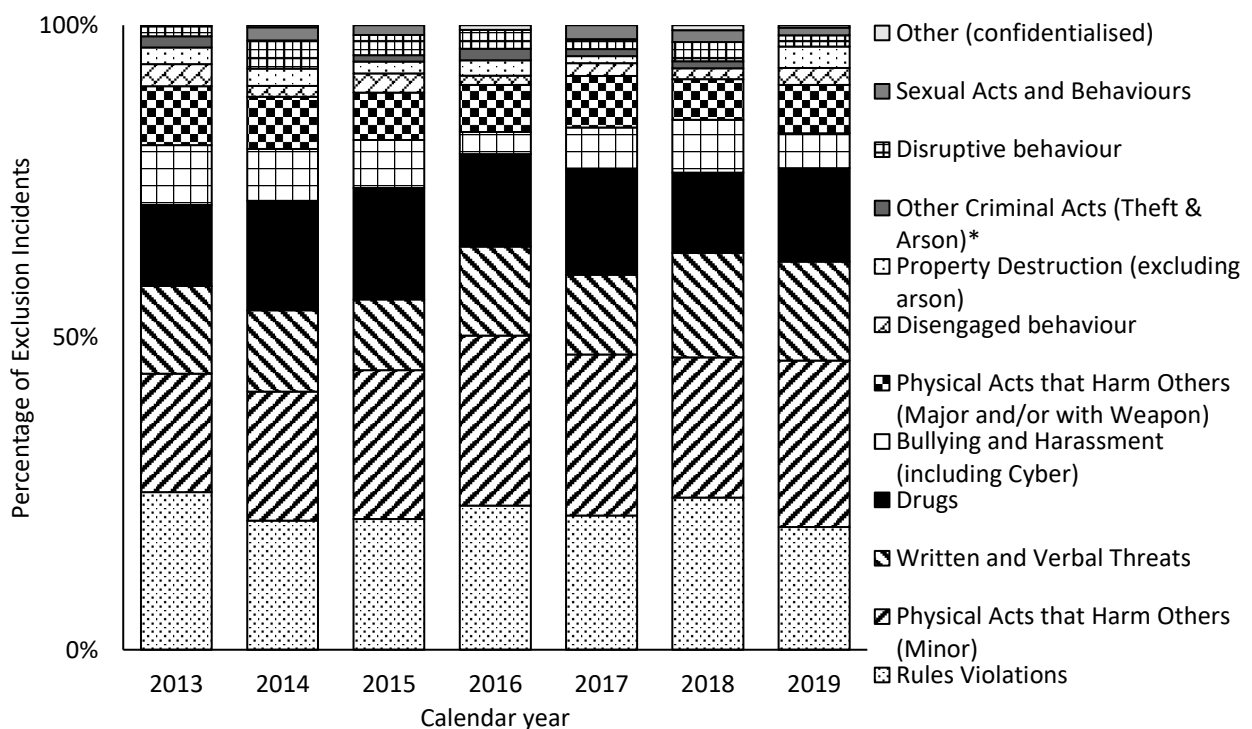


Figure 7.26. Reasons for secondary school exclusions as a percentage of total incidents over time, 2013-2019

## 7.7 CASE-STUDY 5: STUDENTS WITH MORE THAN ONE EXCLUSION

The Inquiry team requested data from the SA Department for Education Data Unit to enable us to learn more about the 92 students who received more than one exclusion in 2019. As displayed in Figure 7.27, the sample is spread from Reception to Year 10 with the greatest proportion of students in upper primary (Years 4–7, 29.3%), followed by Year 9 (26.1%). Of the 92 students who received more than one exclusion in the 2019 school year, 19 were Aboriginal (20.7%), and 48 were attending disadvantaged schools (52.2% in Category 1-3 schools).

Of the 92 students, 68 (73.9%) were recorded as receiving adjustments in NCCD. For these students, 29.4% were recorded as receiving the highest level of adjustments in NCCD, known as Extensive Adjustments (de Bruin et al., 2020). Another 29.4% were recorded as receiving Substantial Adjustments, and 30.9% received Supplementary Adjustments. A majority (63.2%) received adjustments in the ‘social/emotional’ support category, 30.9% received adjustments in the ‘cognitive’ support category, and the remainder received adjustments in the ‘sensory’ and ‘physical’ support categories (5.9%). Students not receiving any adjustments beyond those provided within Quality Differentiated Teaching Practice accounted for 10.3%.

Just over one third of the 92 students, 32 received individually targeted support through IESP. Ten of the 32 receiving IESP funding had a diagnosis of speech/language impairment, nine were on the autism spectrum, seven had complex social/emotional/behaviour needs, and the remainder had an intellectual disability.

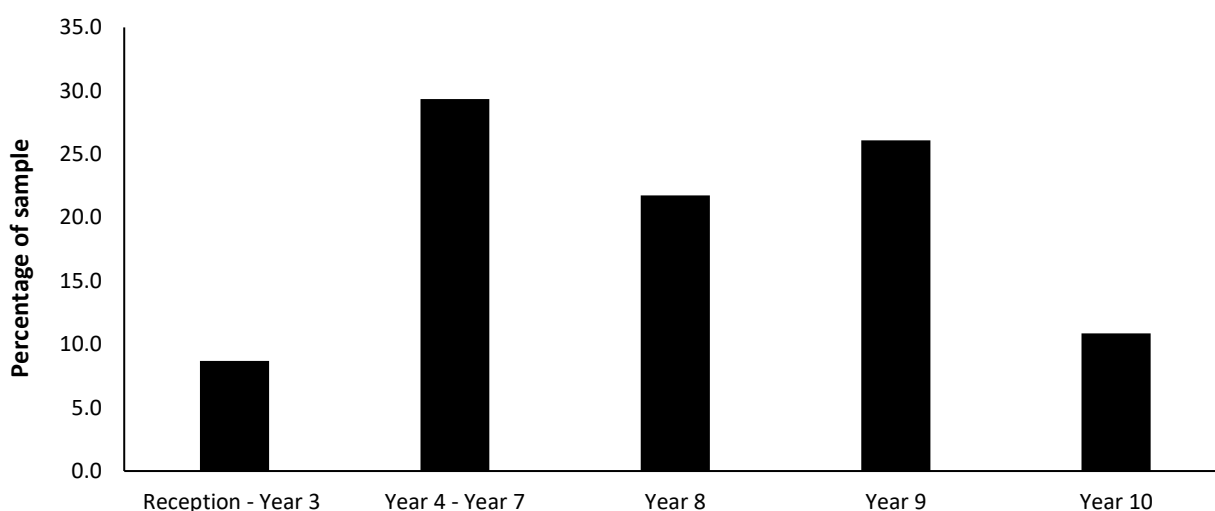


Figure 7.27. Grade/year level distribution of the 92 students who received more than one exclusion in 2019. As there are less than five students in Grades 11/12 and Primary/Secondary Other they are not reported. Source: SA Department for Education data collections, unpublished, September 2020.

Minor Physical Acts, followed by ‘Rules Violations’, and ‘Written and Verbal Threats’ together account for more than three-quarters of the 194 exclusions (76.3%) received by these 92 students. The category ‘Other’ comprises less than 6 exclusions for Disruptive Behaviours, Property Destruction, and Sexual Acts and Behaviours (total). There were no exclusions for Other Criminal Acts (Theft & Arson).

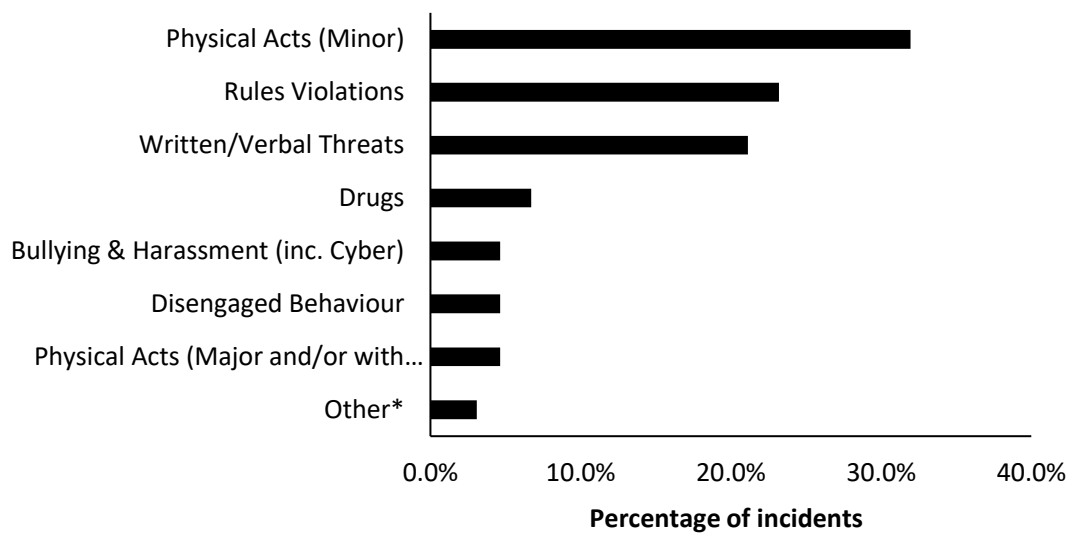


Figure 7.28. Reasons for the exclusions received by the 92 students with more than one exclusion in 2019. Source: SA Department for Education data collections, unpublished, September 2020.

This group of 92 students constitutes just 0.05% of the total number of students enrolled in South Australian government schools, yet they received almost one in five (19.8%) of all exclusions in 2019. In total, the group received 194 exclusions between them, averaging 2.1 exclusions per student in the one calendar year. Importantly, as exclusions are at the extreme end of the disciplinary responses available to South Australian government schools, they are unlikely to be a student’s only disciplinary experience. In other words, a student that has received an exclusion is highly likely to have received at least one suspension or at least one take home prior to being excluded. In combination these exclusionary responses can add up to a lot of time outside of school, so it is important to investigate their combined effect.

Our analysis shows that in addition to receiving an average of 2.1 exclusions in 2019, these 92 students *also* experienced an average of 2.0 take homes and 3.7 suspensions. For combined suspensions and exclusions, the accumulated length in days (not including take homes) was 6,706 days across the 92 students working out to an average of 72.9 days per student in the 2019 school year. Of the 197 school days in 2019, these students on average missed over one third (37.0%) of the school year.

The Inquiry team requested further data from the SA Department for Education Data Unit to enable us to look more closely at progression to exclusion over time. In ‘Case-Study 6: Looking back at take homes, suspensions and exclusions’ we investigate what happened prior to students being excluded more than once in 2019; as in, *what was the trajectory like for a subsample of these 92 students in the lead up to receiving multiple exclusions in 2019?*



## 7.8 CASE-STUDY 6: LOOKING BACK AT TAKE HOMES, SUSPENSIONS AND EXCLUSIONS

The Inquiry team requested retrospective longitudinal data from the SA Department for Education data unit to investigate the disciplinary histories and trajectories of students in the group of 92 who had received more than one exclusion in 2019, focusing on students in Year 9. Longitudinal data was available for 24 Year 9 students who had received more than one exclusion in 2019 (see Figure 7.29).

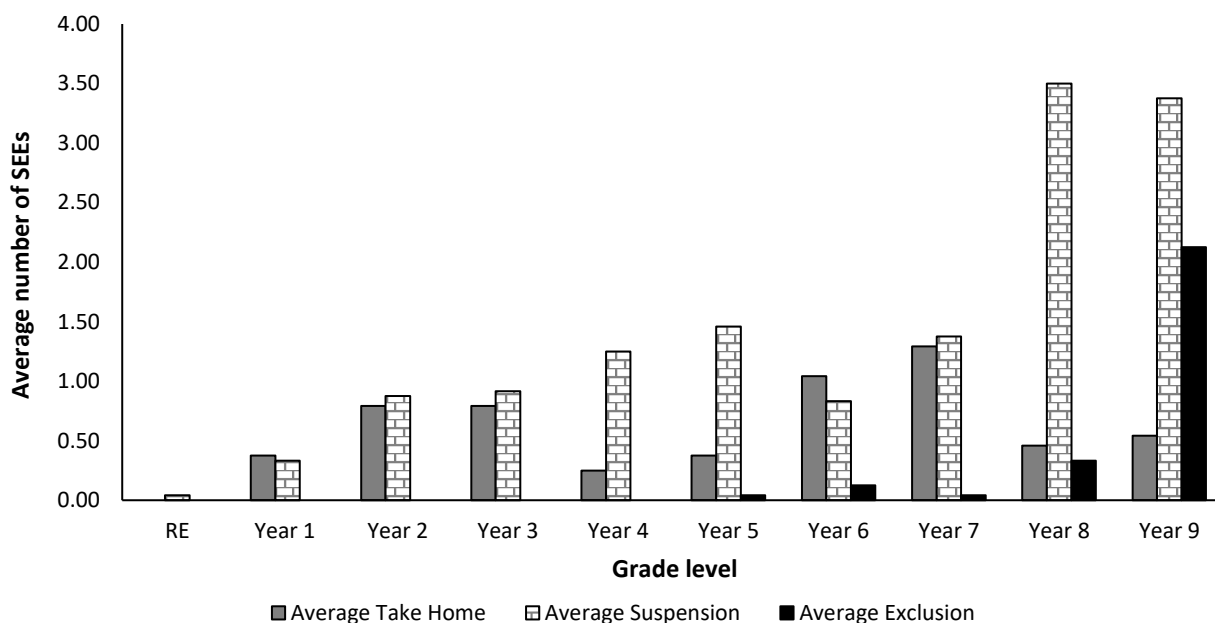


Figure 7.29. Average number of take homes, suspensions and exclusions received by 24 students who received more than one exclusion in 2019 from Reception to Year 9.

Source: SA Department for Education data collections, unpublished, September 2020.

Eighteen of the 24 students (75.0%) were in at least one at-risk group (Aboriginal, NCCD Disability, In Care). Each student received an average of 0.5 take homes, 3.4 suspensions, and 2.1 exclusions in 2019, reflecting at least 9 weeks (and quite possibly much longer) away from school.

For most of these 24 students, this trajectory began in primary school, and for at least one student it began in Reception. As shown in Figure 7.29, the use of take homes and suspensions did not effectively address the behaviour and instead led to further escalation in the use of take homes and suspensions, with resort to the use of exclusions from Year 5.

These patterns illustrate clearly not only that take homes, suspensions and exclusion are not a solution to problem behaviour, but—as discussed in Sections 4.1.1 to 4.1.11 detailing the empirical evidence on the effects and effectiveness of exclusionary discipline—that they likely contribute to an escalation in problem behaviour.

## 7.9 CASE-STUDY 7: EXCLUSIONS OVER 20-WEEKS IN ONE SCHOOL YEAR

Under s. 77 of the *Education and Children's Services Act 2019* (SA) (previously s. 45 of the *Education Regulations 2012* (SA)) there is no limit to how many times a student may be excluded in one year, as long as the total duration does not exceed 20 weeks. Students can only be excluded for more than 20 weeks if authorised by the Chief Executive of the SA Department for Education (*Education and Children's Services Act 2019* (SA), s 77(5)).

According to data acquired by the Inquiry team, seven students were excluded for more than 20 weeks each in the 2019 school year.

Each of the seven students was in an at-risk group, however, due to the small numbers involved and SA Department for Education confidentialisation requirements, it is not possible to disaggregate, beyond noting that six of the seven students were recorded as receiving either substantial or extensive adjustments for disability in the Nationally Consistent Collection of Data on School Students with Disability (NCCD).

These seven students who were excluded for more than 20 weeks each in 2019 received 14 exclusions between them. Reasons for 13 of these exclusions were spread across four categories: threatening gestures, not attending to instruction, not responding to reasonable instructions, and minor physical acts. Notably, this final category of 'Minor Physical Acts' represented the highest proportion of exclusion incidents (6 out of 14; 42.9%).

Assumedly, the legislative requirement for CE authorisation is again delegated to Education Directors, however, no Education Directors that we interviewed during the Inquiry consultations period knew of this delegation power, nor could recall being asked for or providing permission for suspensions or exclusions above these thresholds.

This and the other case studies examining the effectiveness of these legislative thresholds indicate that these critical safeguards are not being upheld in practice. This effectively disables the intended purpose of the legislative thresholds to provide the safeguard of senior oversight which could and should trigger a review of the teaching environment and support services being provided to students, especially those in priority equity groups: students with disability, Aboriginal students and students living in care.

The fact that 13 of these 14 exclusions totalling more than 20 weeks out of school for seven students in 2019 were for **minor reasons** (for which the use of exclusionary discipline has been banned in some public schools systems in the United States, see Section 4.2.2), speaks to the importance of these safeguards and the need for the SA Department for Education to implement strong accountability mechanisms that will ensure the senior oversight necessary to trigger the review and reform necessary to protect these students' rights, interests and outcomes.

## 7.10 CASE-STUDY 8: PROGRESSION TO EXCLUSION

### 7.10.1 Students excluded without a suspension pending exclusion

Under section 77(6) of the *Education and Children's Services Act 2019* (SA) (previously section 45(3) of the *Education Regulations 2012* (SA)), a principal cannot exclude a student unless the student has first been suspended for a period not exceeding five consecutive school days. During this five day period of suspension, a pre-exclusion conference (now 'directions conference') must be held with the student, their parents, and relevant professionals to discuss the incident, the behavioural concerns and learning needs of the student, next steps and whether to proceed with an exclusion (SEE Procedures, 2020, p. 12).

In 2019, 877 students were excluded at least once during the year. Of these, 209 (23.8%) had not been issued any suspensions leading up to the initial exclusion incident. These 209 students were issued a collective total of 227 exclusion incidents, meaning that some of these students were issued with more than one exclusion, yet received no suspensions pending exclusion. More than half (57.4%) were identified as having a disability (NCCD), 23.0% had a verified disability, 20.6% were Aboriginal or Torres Strait Islander, and 7.7% were in care. Most (78.9%) were in secondary school, and 56.0% were enrolled in Category 1-3 schools. Figure 7.30 displays the length of these exclusion incidents. Notably, 41.4% of these incident incidents were 8 or more weeks in length.

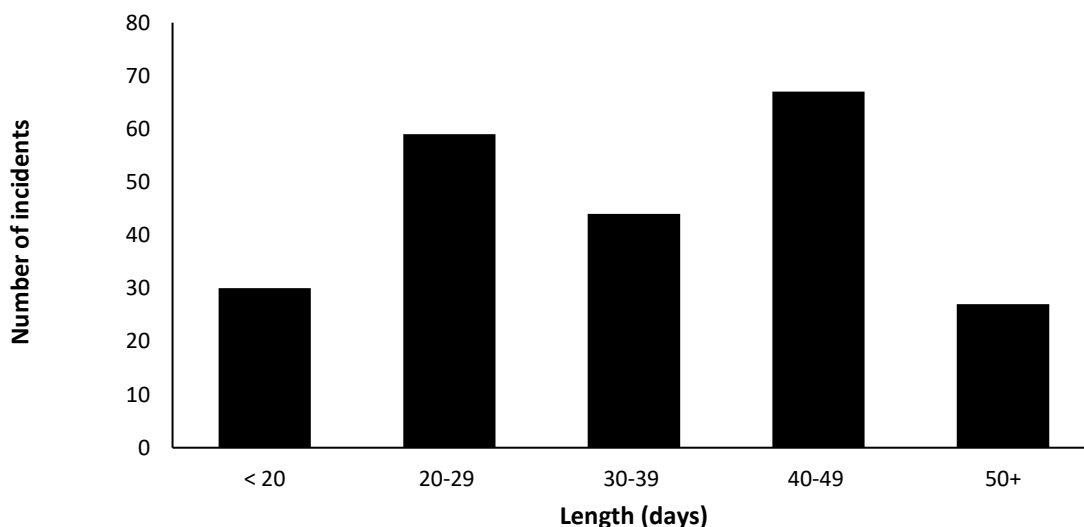


Figure 7.30. Length of exclusion incidents. Source: SA Department for Education data collections, unpublished, September 2020.

Figure 7.31 displays the percentage of exclusion incidents according to reason category. The highest proportion of incidents were issued for Minor Physical Acts (30.8%), followed by Drugs (22.0%), Written and Verbal Threats (13.2%), Major Physical Acts (9.7%), Rules Violations (9.7%), and Bullying and Harassment (3.5%). The remaining incidents (11.0%) were attributable to Disruptive Behaviour, Disengaged Behaviour, Property Destruction, Sexual Acts and Behaviours, and Other Criminal Acts; however, further breakdown of these is not possible due to there being fewer than six incidents within each category.

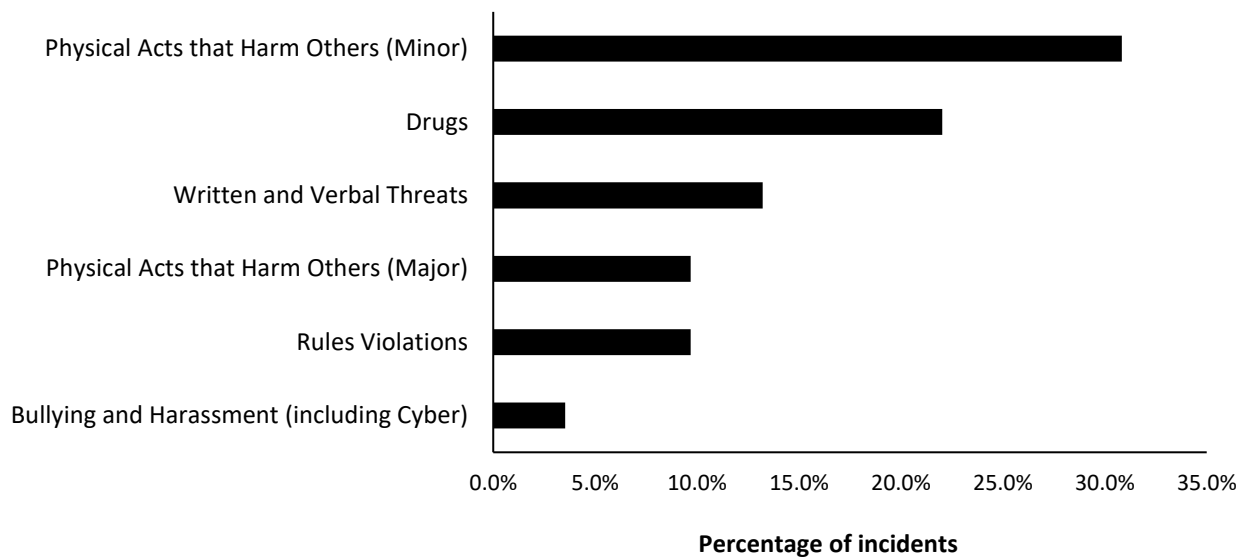


Figure 7.31. Reasons for Exclusion. Source: SA Department for Education data collections, unpublished, September 2020.

### 7.10.2 Students issued at least one suspension prior to first exclusion incident

Students who had been suspended at least once before they were excluded (668; 76.2% of the total 877 suspended) accounted for 752 incidents in total. These students had been issued an average of 3.0 suspensions prior to their first exclusion, during the same school year. Over two thirds were identified as having a disability (70.5%) according to the NCCD, 32.3% received IESP funding, 20.2% were Aboriginal, and 7.9% were in care. These students were predominantly from Category 1 to 3 schools (59.4%) and there was an approximately even split across primary (51.2%) and secondary (48.8%) students. As depicted in Figure 7.32, exclusion incidents were predominantly issued for durations of 8-10 weeks (29.0%), with 8.0% lasting 10 or more weeks (equivalent to a term).

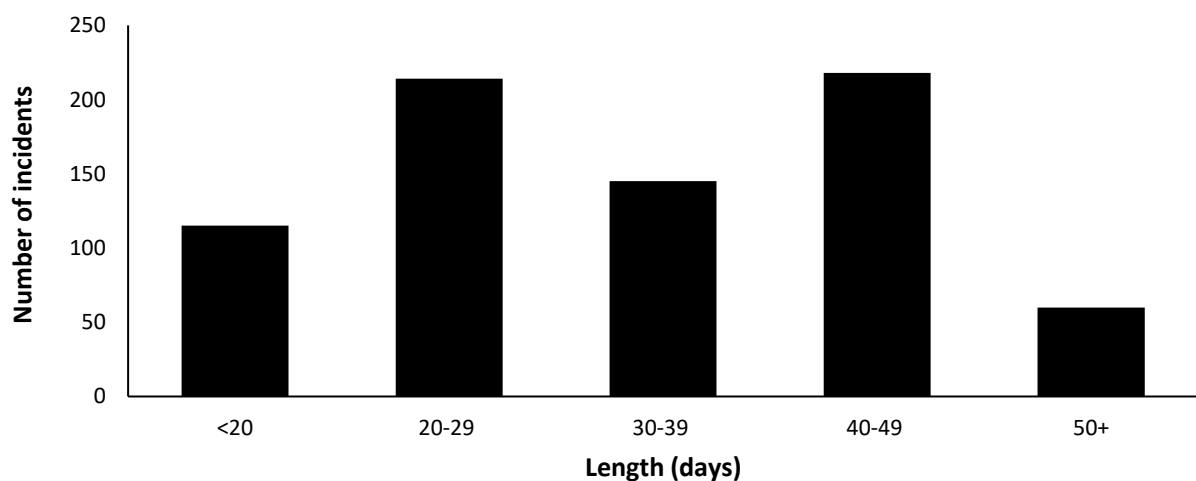


Figure 7.32. Length of exclusion incidents. Source: SA Department for Education data collections, unpublished, September 2020.

Most exclusions were issued for Minor Physical Acts (32.4%), followed by Rules Violations (24.9%), and Written and Verbal Threats (15.8%). A much smaller percentage of incidents were attributed to Major Physical Acts (6.0%), Drugs (5.1%), Bullying and Harassment (4.7%), Property Destruction (3.1%), Disengaged behaviour (2.7%), and Disruptive behaviour (1.7%). Sexual Acts and Behaviours and Other Criminal Acts together accounted for the remaining 3.7% of incidents (see Figure 7.33).

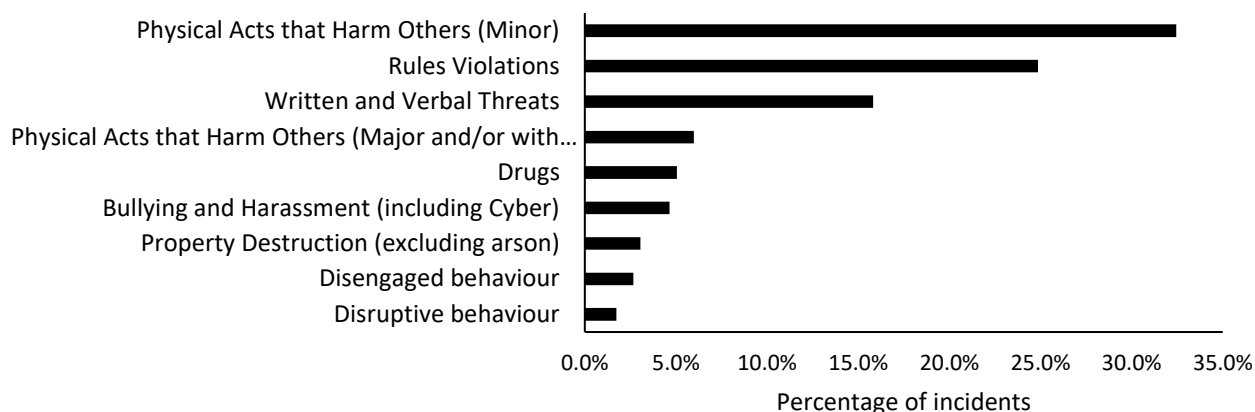


Figure 7.33. Reasons for Exclusion. Source: SA Department for Education data collections, unpublished, September 2020.

### 7.10.3 Progression to exclusion


As we noted above, a student must be suspended for up to five school days prior to an exclusion. While the SEE Procedures do not explicitly state that a student must have been suspended on the same grounds as the exclusion, they do explicitly state that a student should be suspended first to allow a directions hearing to occur. Both the reason for the suspension pending exclusion and the exclusion (should one follow) are to be recorded in EDSAS.

The absence of a prior suspension on the same grounds as a subsequent exclusion suggests (i) a possible data recording issue, (ii) that students may not have been suspended immediately prior to the exclusion as required under the *Education and Children’s Services Act 2019* (SA) and SEE Procedures, and/or that (iii) these exclusions were not used as a disciplinary response of last resort.

For students who had been suspended at least once prior to exclusion, the two most prevalent reasons for the exclusion were ‘Physical Acts (Minor)’ and ‘Rules Violations’. To see whether students’ preceding suspension had been issued for the same reason, we examined the progression to exclusion within these two main categories in greater detail.

In total, 309 students were excluded during 2019 for Minor Physical Acts, accruing 327 incidents between them. Just over half of these students (160; 51.8%) had been issued with at least one suspension for Minor Physical Acts prior to their first exclusion for the same reason. These students had an average of 2.2 preceding suspensions. The remainder (149; 48.2%), however, had no suspension incidents for the same reason leading up to the exclusion.

A similar pattern can be identified in exclusions for Rules Violations. There were 205 students excluded for Rules Violations during 2019, together accounting for 215 individual incidents.



Three in every four of these students (153; 74.6%) had received at least one suspension of the same nature prior to their exclusion during that year, with 2.1 suspensions on average. However, one quarter (52; 25.4%) had not previously been suspended for Rules Violations again suggesting a data recording issue or that these students may not have been suspended immediately prior to the exclusion as required under the *Education and Children's Services Act 2019 (SA)* and SEE Procedures, and that these exclusions were not used as a disciplinary response of last resort.

## 8 OVER-REPRESENTATION OF 'AT-RISK' STUDENTS

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### Terms of Reference:

- whether vulnerable or at-risk students are over-represented in suspension, exclusion and expulsion numbers and whether the department is effectively addressing any such issues.

Disproportionate representation occurs when a group is over or underrepresented in a given category at a rate that is disproportionate to their representation within the total overall population (Waitoller, Artiles, & Cheney, 2010). One measure of overrepresentation that has been used in the research literature is the +/-10% rule. A group is considered to be under or overrepresented if their representation in segregated special educational settings or exclusionary discipline is more than 10% above or below their representation in the wider population (Chinn & Hughes, 1987). Importantly, overrepresentation in school discipline statistics should not be simplistically interpreted to mean that students in overrepresented groups are less “well-behaved” than students in other groups. Rather, disproportionality should be interpreted as an indicator that gender, racial, cultural, and other types of bias, like ableism, are at play (Waitoller et al., 2010). Research in the United States, for example, has identified that African American students are subjected to harsher punishments for the same behavioural infractions as white students (Skiba et al., 2002), contributing to their overrepresentation in exclusionary discipline statistics. Similarly, overrepresentation of students with disability has been found to be associated with a lack of flexibility in discipline response systems and inadequacy in the support necessary for these students to successfully access and participate in school education (Achilles, McLaughlin, & Croninger, 2007).

Research on school discipline and segregation into special education has consistently identified disproportionate overrepresentation of the same groups: boys, students with disability, historically marginalised and dispossessed racial/ethnic minorities, and children in care (Waitoller et al., 2010; Beauchamp, 2012). Similar disproportionate over-representation in South Australian government school take home, suspension and exclusion statistics should therefore be interpreted as an indicator that school policies and practices—including but not limited to those relating to school discipline—may be having a differential and disproportionate effect on particular groups and that compensatory equity measures, such as reasonable adjustments and additional support funding, are either non-existent, insufficient or ineffective. As illustrated below, three priority equity groups—*students with disability, Aboriginal students and students living in care*—are indeed overrepresented in South Australian government school statistics relating to the use of exclusionary discipline, as well as enrolments in satellite and segregated settings. Moreover, as their overrepresentation is increasing, the department is clearly not effectively addressing the problem. While South Australia is not alone in experiencing overrepresentation (see, for example, recent data from NSW reported in Section 4.2), disproportionality in take homes, suspensions, and exclusions, where identified, *must* be addressed because of the significant and serious effect these exclusionary responses have on student engagement, learning, and post-educational outcomes. These outcomes are felt in other areas of social policy, including public health, employment, and the justice system with significant implications for lifelong dependence on the state.

## 8.1 GENDER DISPROPORTIONALITY

### 8.1.1 Take homes

As shown in Figure 8.1, boys are disproportionately represented in take homes, and their overrepresentation has increased over time, particularly since 2016. For example, girls account for 48.5% of enrolments in South Australian government schools, but only 18.0% of take home incidents. Boys, on the other hand, account for 51.5% of enrolments, but 82.0% of all take homes.

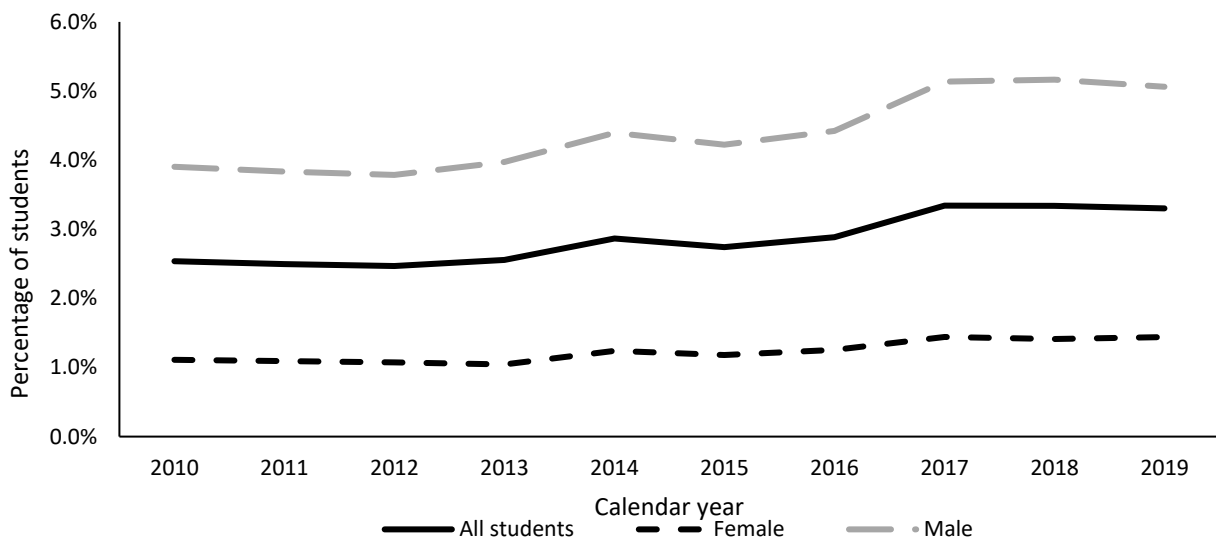


Figure 8.1. Percentage of male and female students being issued a Take Home at least once in a calendar year, 2010 to 2019. Source: SA Department for Education data collections, unpublished, September 2020.

Using Chinn and Hughes' (1987) +/-10% rule, boys are also overrepresented in all take home reason categories except for drugs, where they account for 54.3% of take homes; a percentage that is within 10% of their distribution in the population (Figure 8.2).

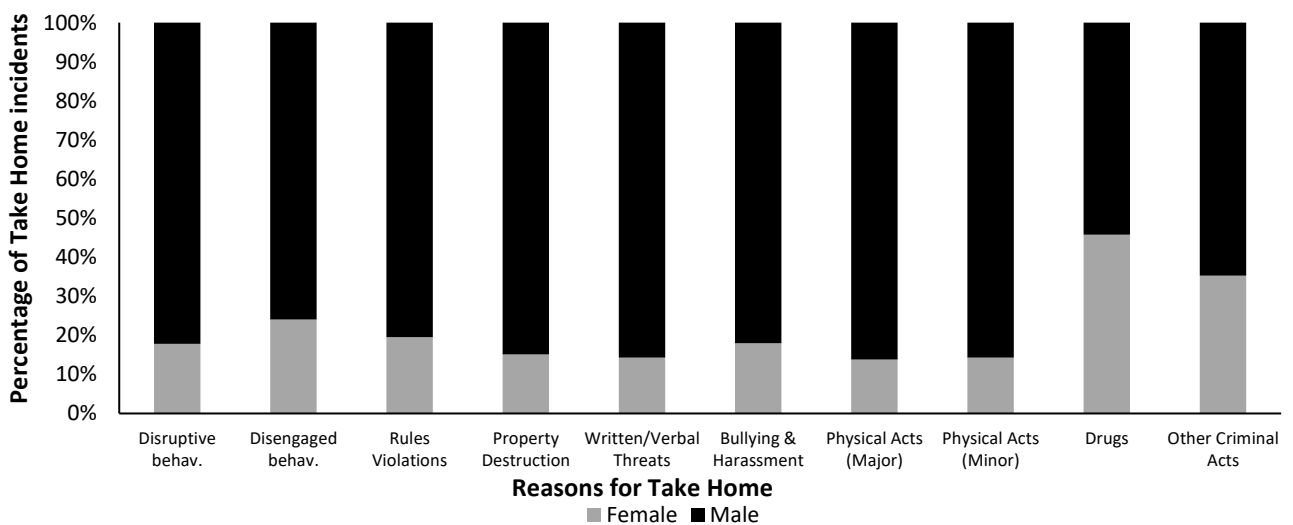


Figure 8.2. Percentage of take home incidents by reason and gender, 2019. Note that fewer than six incidents were recorded for female students in the category Sexual Acts and Behaviours, thus are not included in this graph.



### 8.1.2 Suspensions

Boys were overrepresented in suspensions (compared to girls) during the years 2010 to 2019 (Figure 8.3). The percentage of boys being suspended at least once declined from 10.0% in 2010 to 8.6% in 2019 (a decrease of 14.0%), whereas the percentage of girls declined from 3.6% to 2.8% (a decrease of 22.1%). Larger declines in the suspension of girls have therefore contributed to an increase in the overrepresentation of boys over time. For example, boys accounted for 77.3% of all suspensions in 2010 (including repeat suspensions), but 79.3% in 2019.

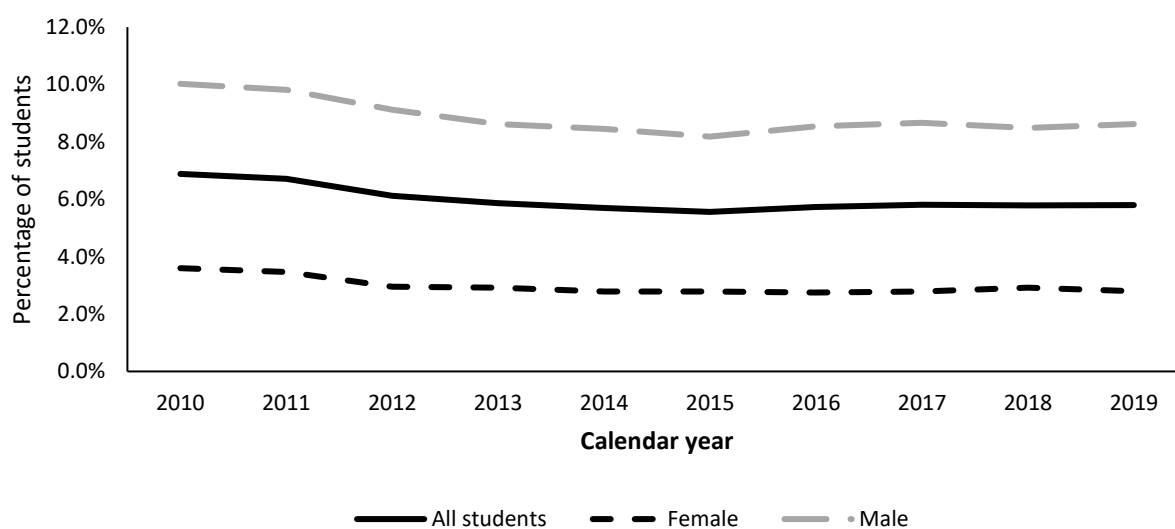


Figure 8.3. Percentage of school students (R-12) being suspended at least once in a calendar year, by gender, 2010 to 2019. Source: SA Department for Education data collections, unpublished, September 2020.

#### 8.1.2.1 Length of suspension

Boys are more likely than girls to be suspended for one or two days (Figure 8.4). Interestingly, however, girls are more likely than boys to be suspended for three, four or five days. This may indicate that girls are being suspended for more serious incidents than boys and/or that they are not being suspended for less serious incidents, whereas boys are.

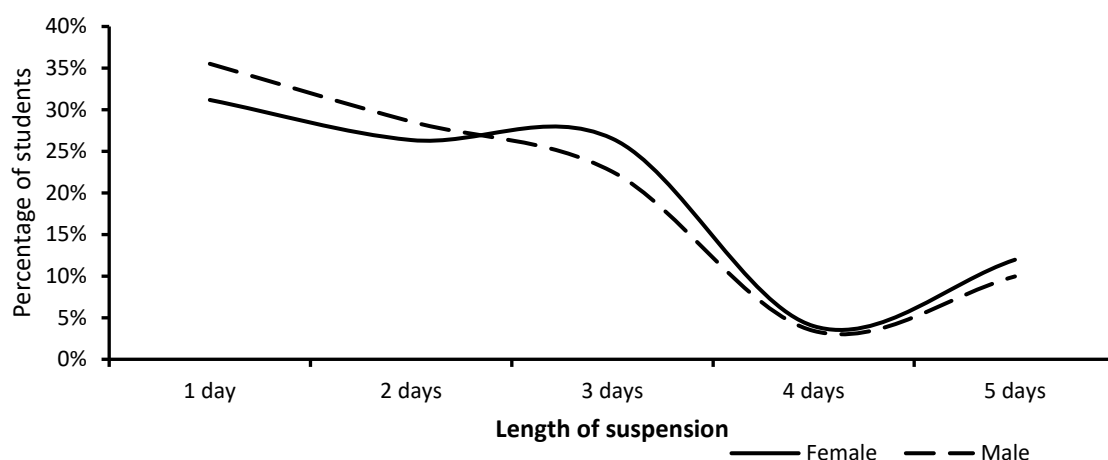


Figure 8.4. Percentage of suspension incidents (R-12) by length of suspension (days) and gender, 2019. Source: SA Department for Education data collections, unpublished, September 2020.

### 8.1.2.2 Reasons for suspension

As with take homes, boys are overrepresented in all reason categories for suspensions, except for drugs where they account for 55.5% of suspensions (Figure 8.5); a percentage that is within 10% of their distribution in the population.

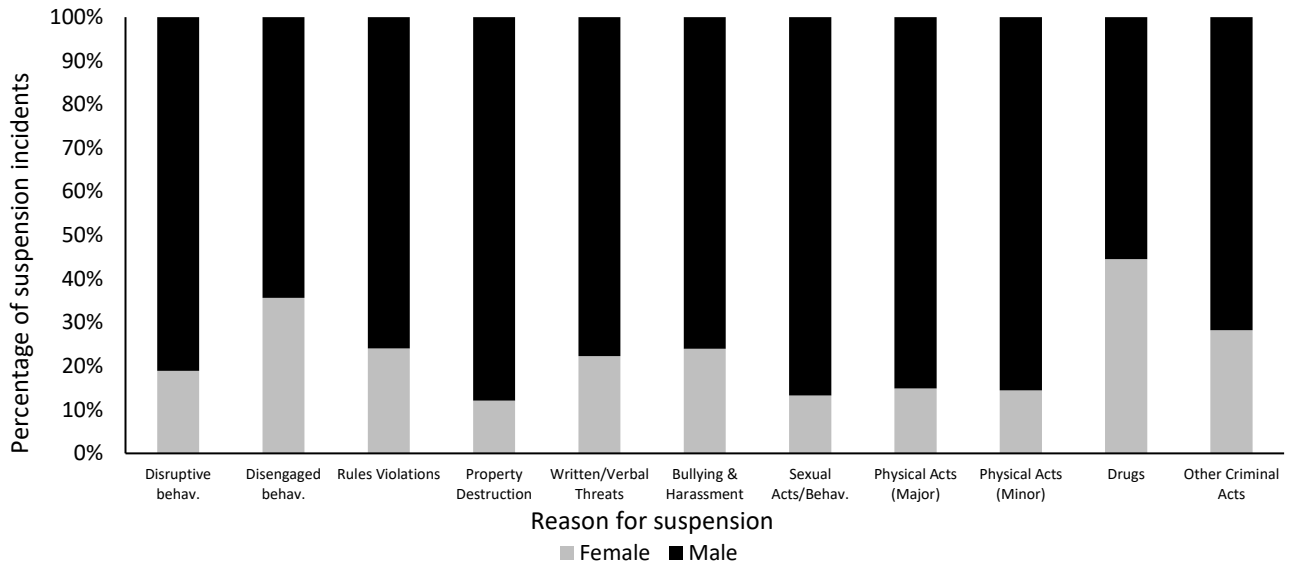


Figure 8.5. Percentage of suspension incidents, by reason for suspension and gender, 2019. Source: SA Department for Education data collections, unpublished, September 2020.

### 8.1.3 Exclusions

Figure 8.6 displays the total percentage of students excluded, and the breakdown according to gender, for each calendar year. Boys were overrepresented relative to girls in each calendar year. In 2019, girls accounted for 49.0% of enrolments but 21.6% of all exclusions (including repeat exclusions), while boys accounted for 51.0% of enrolments and 78.4% of all exclusions.

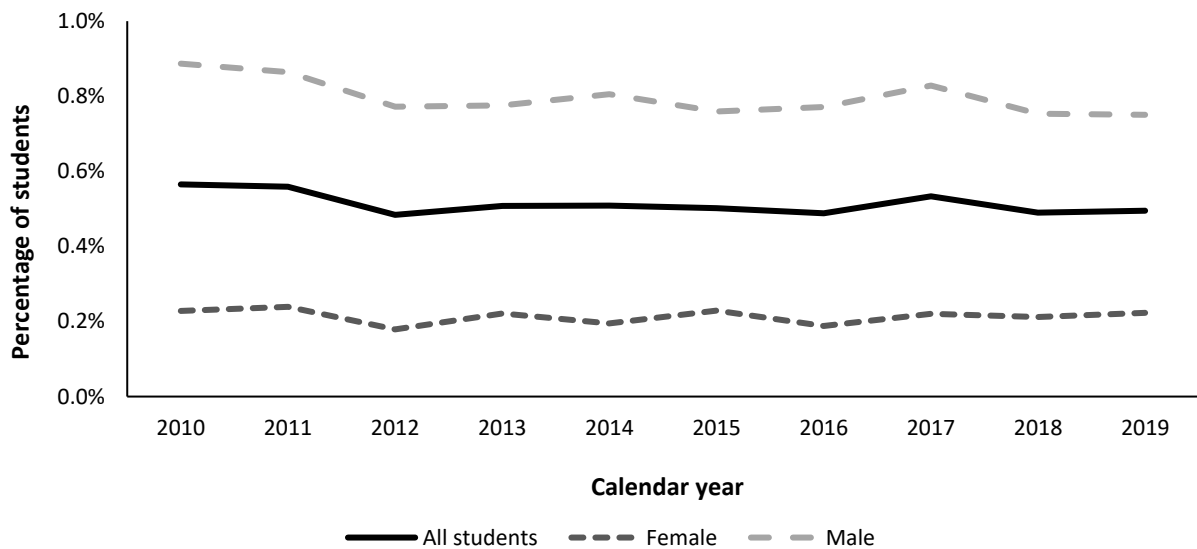


Figure 8.6. Percentage of school students (R-12) excluded at least once in a school year by gender, 2010-19. Source: SA Department for Education data collections, unpublished, September 2020.

### 8.1.3.1 Length of exclusions

Exclusion incidents according to gender are displayed in Figure 8.7. Two distinct peaks are evident for boys indicating principal preference for 4-week and 8-week exclusions. A similar, albeit much reduced, pattern exists for girls with slightly more preference for 7-week than 8-week exclusions.

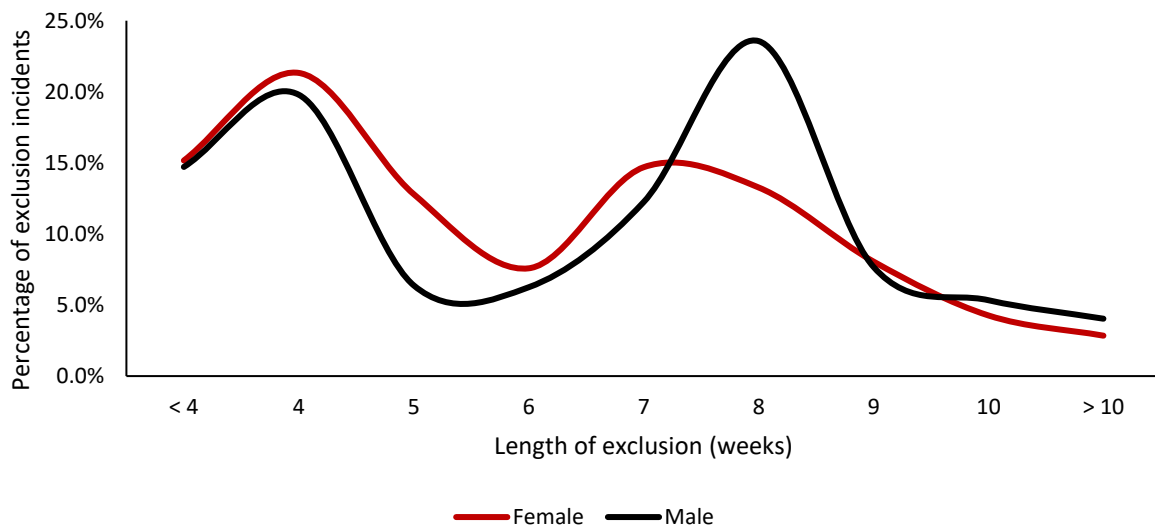


Figure 8.7. Number of exclusion incidents in 2019 by length of exclusion in weeks disaggregated by gender. Source: SA Department for Education data collections, unpublished, September 2020.

### 8.1.3.2 Reasons for exclusions

As shown in Figure 8.8, boys are overrepresented in all reason categories for exclusions. All categories exceed Chinn and Hughes' +/-10% rule.

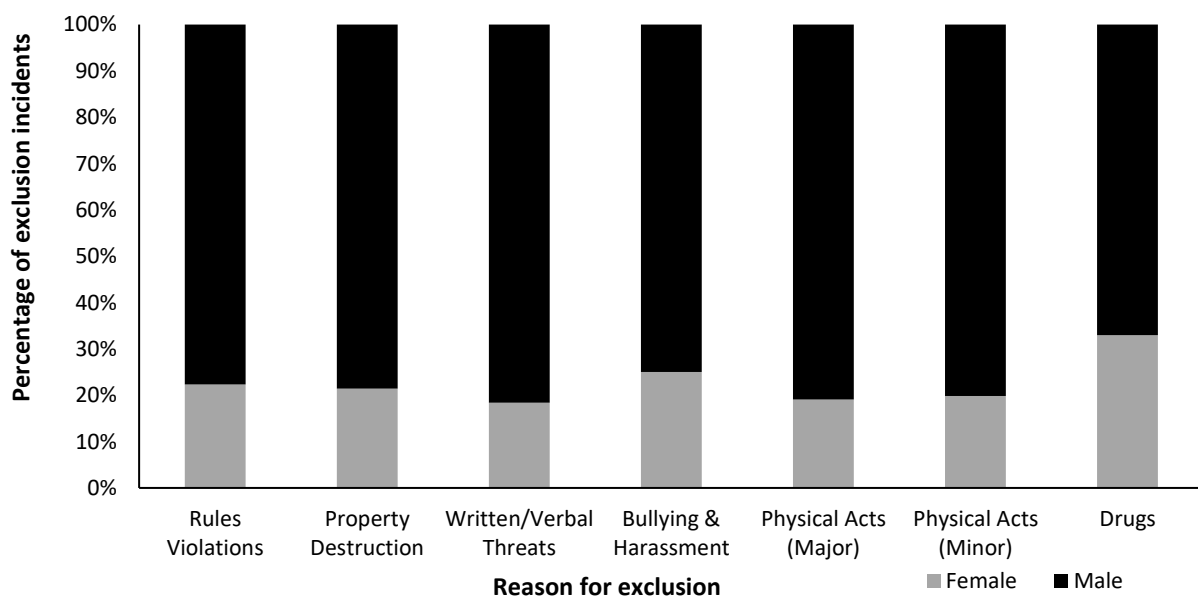


Figure 8.8. Percentage of exclusion incidents by reasons for exclusion and gender, 2019. Note that where fewer than six incidents were recorded in a reason category, they are not reported for reasons of confidentiality. Source: SA Department for Education data collections, unpublished, September 2020.

## 8.2 STUDENTS WITH DISABILITY

There are two ways of grouping students with disability attending South Australian government schools:

- (i) those who qualify as having a disability according to the eligibility criteria informing the *Disability Discrimination Act 1992* (Cth) (DDA), which in turn informs the Nationally Consistent Collection of Data on School Students with a Disability (NCCD), and
- (ii) those with a verified diagnosis of disability within the categories eligible for additional support within South Australian government schools (NEP, 2006–2018/IESP, 2019–).

The NCCD counts all students with a disability (both diagnosed and imputed) for whom schools claim to have made an adjustment that year. The NCCD came into effect in 2016 and counting rules and definitions have changed since the start of the collection, leading to changes over time. The Australian government passed the *Australian Education Amendment Act 2017* enabling the use of NCCD data to determine the allocation of “Gonski 2.0” disability loadings to all education sector providers (de Bruin et al., 2020). These loadings commenced in 2018.

The NEP/IESP category counts a much smaller proportion of students with disability than NCCD. It is important to note that the two categories are not distinct and there is overlap, as all students in the NEP/IESP category will also be counted in the NCCD. For the purposes of this Inquiry, however, it is still worth examining both groups as differences in overrepresentation may highlight inadequacies in support for students with disability for whom it is claimed that adjustments are being made.

Further, as noted in Chapter 3, all students who meet the definition of disability in the *Disability Discrimination Act 2012* (Cth) and *Disability Standards for Education 2005* (Cth), are entitled to reasonable adjustments to enable them to access and participate in education on the same basis as students without disability, irrespective of whether they meet eligibility criteria for additional disability funding support (e.g., NEP/IESP) set by respective education providers.

### 8.2.1 Students with a disability counted in NCCD

Just over one in five students (22.4%) in South Australian government schools were recorded as receiving adjustments for disability in 2016 (Figure 8.9). By 2019, the number of students recorded as receiving adjustments through NCCD had increased to almost one in three (29.6%), reflecting a 32.1% increase over this four-year period with the largest increases occurring after the 2018 commencement of the Australian government’s “Gonski 2.0” disability loadings.

Figure 8.9 highlights a serious and documented concern with the lack of accountability in relation to the NCCD model (de Bruin et al., 2020), and the lack of checks in place to determine whether the adjustment being claimed (a) actually occurred, (b) was appropriate, and (c) was effective. Increases in funding claims do not appear to be resulting in improved outcomes for students with a disability, as take homes, suspensions and exclusions are rising each year, in excess of NCCD population increases.

#### 8.2.1.1 Take homes

Students counted as receiving an adjustment for disability through NCCD accounted for 69.3% of take homes in 2019, an increase of 26.5% from 2016 (Figure 8.9). Students in this group were 5.4 times more likely than students without disability to be sent home from school in 2019

(all risk ratios are displayed in Table 8.2, Section 8.8).

### 8.2.1.2 Suspensions

Students recorded as receiving NCCD adjustments accounted for 42.5% of suspensions in 2016 and 56.6% of suspensions in 2019 (Figure 8.9), a rise of 33.0% that also outstripped NCCD population increase. As such, the risk of suspension for students with disability recorded as receiving adjustments through NCCD rose from being 2.6 times more likely to be suspended than students without disability in 2016 to 3.1 times more likely in 2019 (all risk ratios are displayed in Table 8.2, Section 8.8).

### 8.2.1.3 Exclusions

Students counted in the NCCD were overrepresented in exclusions across all four years of available linked data. In 2016, they accounted for almost one in every two exclusions (48.5%), rising to two in every three exclusions (67.4%) in 2019; an increase of 38.9%. The increase in exclusions of students in this group however is larger than the increase in the number of students counted in NCCD, indicating a considerable increase in exclusions for this group of students with a disability. In other words, the increases in exclusions cannot be accounted for by population growth. By 2019, students recorded as receiving an adjustment in NCCD were 4.9 times more likely to receive an exclusion than students without disability (all risk ratios are displayed in Table 8.2, Section 8.8).

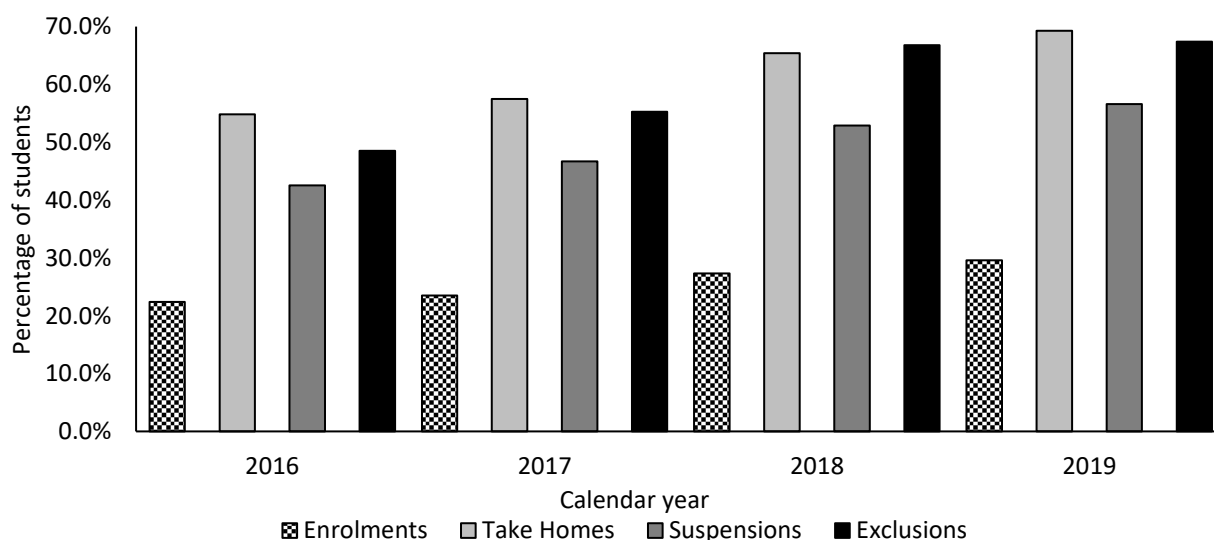


Figure 8.9. Percentage of school students (R-12) with a disability (NCCD) as represented in total enrolments compared to take homes, suspensions and exclusions, 2016-2019. Source: SA Department for Education data collections, unpublished, September 2020.

## 8.2.2 Students with a disability receiving NEP/IESP funding

Just under one in 10 students (9.0%) were recorded as receiving individually targeted funding through NEP in 2010 (Figure 8.10). This percentage remained relatively steady until 2019 when the Inclusive Education Support Program (IESP) was implemented. The IESP is aligned with the broader definitions of disability used by the NCCD and the DDA, but it still does not include all students with a disability (see eligibility criteria in Table 3.3). Between 2018 and 2019, the number of students receiving additional funding support increased from 9.5% of all students to

10.8% (a percentage change of 14.1%), most likely due to the change in the definition of disability and expansion of eligibility criteria as a result of the IESP.

#### 8.2.2.1 Take homes

Students with a disability receiving individually targeted funding through NEP/IESP support programs were overrepresented in take homes with their overrepresentation increasing over time (Figure 8.10). More than one in four take homes (27.0%) in 2010 were issued to students in this group. By 2019, this had risen to almost one in three (32.5%), an increase of 20.7%. The increase in take homes received by students with a disability is larger than the increase in the number of students receiving NEP/IESP funding, meaning that students in this group faced 4.0 times the risk of being sent home than other students in 2019 (all risk ratios are displayed in Table 8.2, Section 8.8).

#### 8.2.2.2 Suspensions

Students with disability receiving NEP/IESP funding are also overrepresented in suspensions. While expansion in this cohort of students with disability may help to account for the sharp increase in suspensions from 2018 to 2019, other notable increases began in 2016; three years prior to the introduction of the IESP. These increases cannot be accounted for by an increase in student numbers, as students with a disability receiving individually targeted funding accounted for the exact same percentage (9.0%) of total enrolments in both 2010 and 2016. The increase in suspensions from 2016 instead indicates a *real* increase in the number of suspensions issued to this group of students with disability.

Looking across enrolment and suspension patterns, it is likely that these students were those who were moved from FLO back into mainstream and segregated settings from 2016 (see Figure 6.1.1), where suspensions were subsequently issued and recorded. In 2019, students receiving NEP/IESP funding constituted 10.8% of total enrolments (Figure 8.10), but 23.5% of students who received one or more suspensions in that year. Their representation in terms of suspensions is more than double their representation in overall enrolments, meaning students with a disability who receive individually targeted funding face 2.5 times the risk of being suspended than other students (all risk ratios are displayed in Table 8.2, Section 8.8).

#### 8.2.2.3 Exclusions

Students with disability receiving individually targeted funding through NEP/IESP support programs were overrepresented in exclusions from 2010 (Figure 8.10), when they constituted less than one in 10 enrolments (9.0%) but more than one in four exclusions (26.1%), through to 2019, when they constituted just over one in 10 enrolments (10.8%) but almost one in three exclusions (30.1%). As noted earlier in relation to enrolments in and out of FLO (see Section 6.6), exclusions declined between 2010 and 2013 but began rising again in 2014. By 2019, students in this group had 3.6 times the risk of being excluded than other students (Table 8.2).

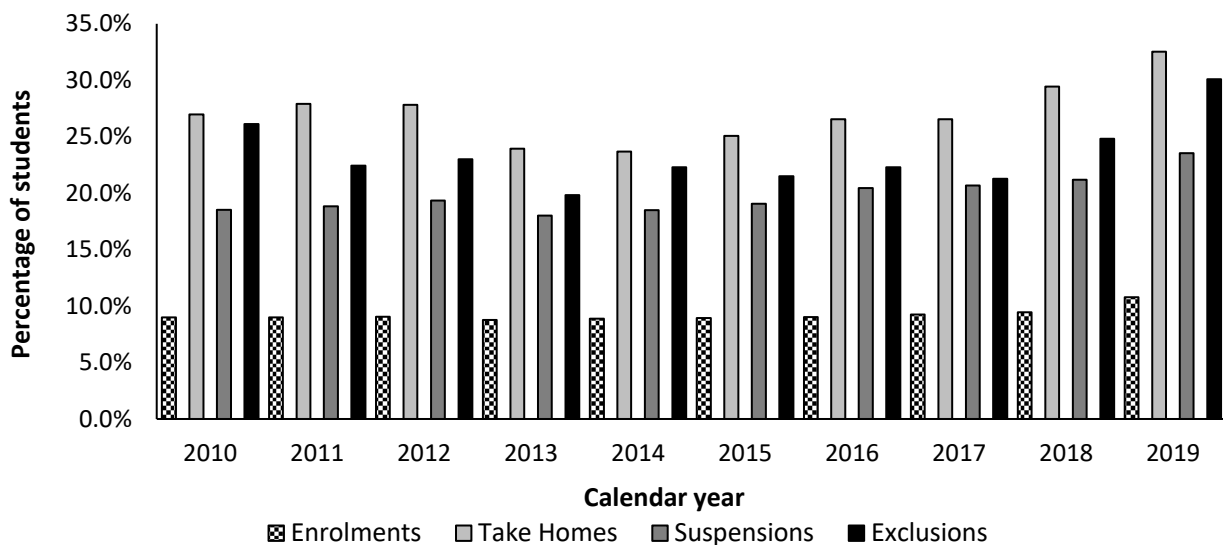


Figure 8.10. Percentage of school students (R-12) with a verified disability (NEP/IESP) as represented in total enrolments compared to take homes, suspensions, and exclusions, 2010 to 2019. Source: SA Department for Education data collections, unpublished, September 2020.

### 8.3 ABORIGINAL STUDENTS

There has been an increase of 31.9% in the number of students identifying as Aboriginal in South Australian government schools in the 10 years between 2010, when Aboriginal students accounted for 5.0% of total enrolments, and 2019, when Aboriginal students accounted for 6.6% of enrolments (Figure 8.11). Aboriginal students are overrepresented in take homes, suspensions and exclusions, and their overrepresentation in suspensions and exclusions (but not take homes) has increased over time.

#### 8.3.1 Take homes

Aboriginal students are overrepresented in take home statistics, constituting just 6.6% of enrolments in 2019, but 21.4% of take homes (Figure 8.11). The number of take homes issued to Aboriginal students has increased over time with 18.3% of take homes in 2010 rising to 21.4% in 2019, an increase of 17.0% over 10 years. However, as the rise in take homes of Aboriginal students was lower than the increase in the number of students identifying as Aboriginal, their relative risk of being sent home declined from 4.3 times that of non-Aboriginal students in 2010 to 3.9 times in 2019 (see risk ratios in Table 8.2, Section 8.8).

#### 8.3.2 Suspensions

Aboriginal students are overrepresented in suspension statistics, constituting just 6.6% of enrolments in 2019, but 17.6% of suspensions (Figure 8.11). Their degree of overrepresentation in suspension statistics and therefore relative risk of suspension has increased over time, even accounting for population increase. For example, in 2010, Aboriginal students were 2.5 times more likely than their non-Aboriginal peers to be suspended (Table 8.2). By 2019, however, their risk of being suspended had increased to 3.0 times that of non-Aboriginal students (Table 8.2, Section 8.8).

### 8.3.3 Exclusions

Aboriginal students are also overrepresented in exclusion statistics, and this increased by 40.8% in the 10 years from 2010 to 2019, well exceeding the Aboriginal student population increase (Figure 8.11). For example, Aboriginal students accounted for 5.0% of enrolments in 2010 and 14.4% of exclusions. By 2019, they accounted for 6.6% of enrolments, but 20.3% of exclusions. This growth was not linear. Aboriginal overrepresentation in exclusions increased substantially in 2015 and, despite a brief fall in 2017, maintained an upwards trend overall. In 2010, Aboriginal students were 3.2 times more likely than their non-Aboriginal peers to be excluded (Table 8.2), however, by 2019, their risk of being excluded had increased to 3.6 times that of non-Aboriginal students (see risk ratios in Table 8.2, Section 8.8).

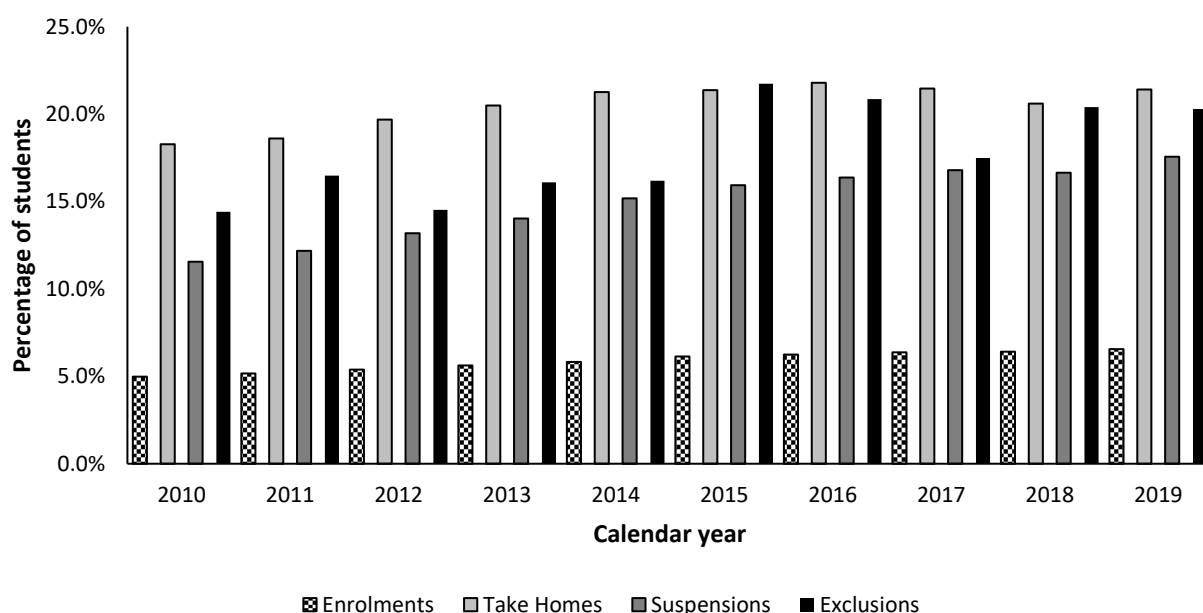


Figure 8.11. Percentage of Aboriginal students (R-12) as represented in total enrolments compared to take homes, suspensions, and exclusions, 2010 to 2019. Source: SA Department for Education data collections, unpublished, September 2020.

## 8.4 STUDENTS IN CARE

The number of students attending South Australian government schools who live in care has increased from 0.8% of total enrolments in 2010 to 1.3% of total enrolments in 2019, representing a 58.7% increase in the population of students in care (Figure 8.12). This group of students is overrepresented in take homes, suspensions and exclusions with their overrepresentation increasing in all three categories over time. This growth has occurred despite recommendations specific to the education of children in care made in the 2016 Report of the Child Protection Systems (Nyland) Royal Commission (see Section 2.3 Prior Work Relevant to this Inquiry). While the SA Department for Education has implemented several initiatives, such as the Trauma Aware Schools initiative, and has produced an excellent Behaviour Support Policy, these were only recently implemented and are unlikely to achieve the required culture and practice change without whole-scale, evidence-based systemic reform.



### 8.4.1 Take homes

Children in care are overrepresented in take home statistics, constituting just 1.3% of enrolments in 2019, but 6.8% of take homes (Figure 8.12). Just under one in 20 take homes in 2010 (4.5%) were issued to students in care and this rate increased each year, peaking at 6.8% in 2019. As the rise in the number of students in care was higher than the rise in the number of take homes, their relative risk of being sent home marginally declined from 5.9 times that of other students in 2010 to 5.8 in 2019 (see Risk Ratios in Table 8.2).

### 8.4.2 Suspensions

Children in care are overrepresented in suspension statistics, constituting just 1.3% of total enrolments in 2019 but 5.0% of suspensions (Figure 8.12). Sustained increases in suspensions over time have more than outstripped population increases. As noted above, the number of students in care increased by 58.7% in the 10 years from 2010 to 2019. Suspensions, on the other hand, rose from 2.5% to 5.0% (an increase of 100%). Again, despite the Nyland Royal Commission recommendations specifically relating to the use of exclusionary discipline on students living in care, students in this priority equity group now face 4.1 times the risk of being suspended than other students, up from 3.2 times the risk in 2010 (see Table 8.2).

### 8.4.3 Exclusions

Children in care are seriously overrepresented in exclusion statistics, constituting just 1.3% of total enrolments but 7.9% of exclusions (Figure 8.12). The overrepresentation of students living in care has increased by 67.3% between 2010 and 2019, outstripping growth in the number of students in care across the same 10-year period. In 2019, students in care faced 6.7 times the risk of being excluded than other students (see Table 8.2).

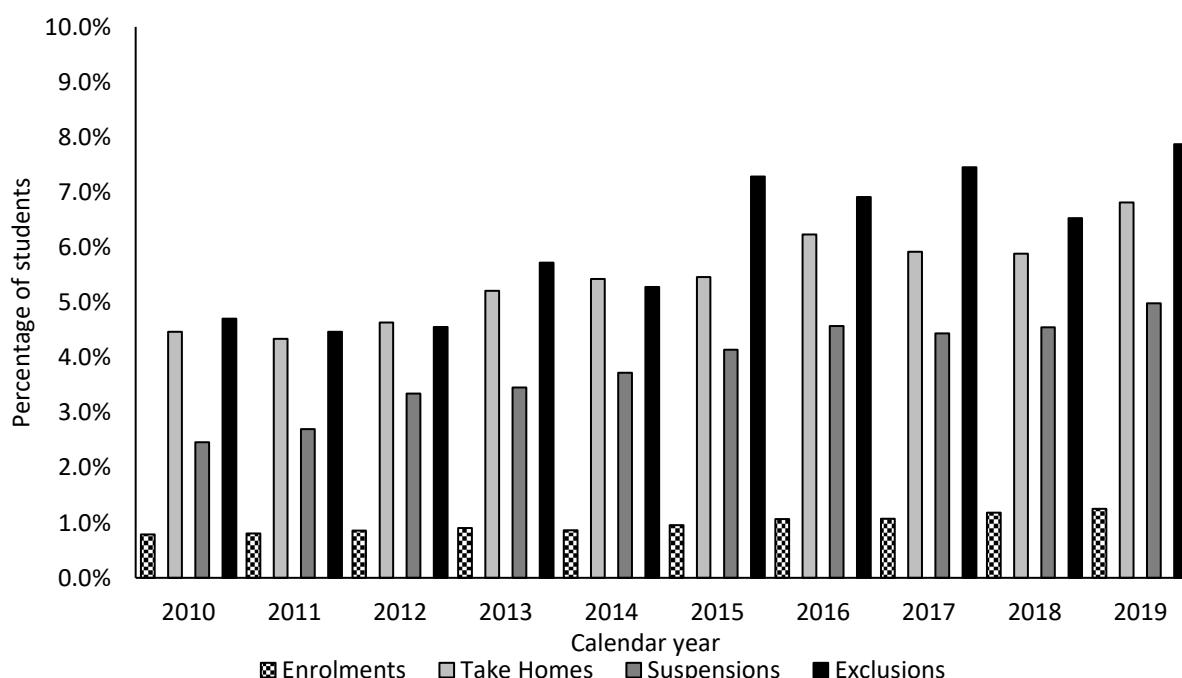


Figure 8.12. Percentage of students in care (R-12) as represented in total enrolments compared to take homes, suspensions, and exclusions, (2010-19). Source: SA Department for Education data collections, unpublished, September 2020.

## 8.5 STUDENTS ENROLLED IN FLO

Students enrolled in FLO represented 1.8% of total enrolments in 2010 (Figure 8.13), and this percentage increased in subsequent years (peaking at 3.2% in years 2012, 2015, and 2016). During 2019, these students made up 2.7% of total enrolments. Students in FLO are overrepresented in take homes, suspensions, and exclusions, during the years 2010 to 2014. From 2015 onwards, the percentage of take homes and suspensions is reduced in comparison to enrolments. However, these students were still issued with exclusions at a rate disproportionate with their enrolments in every calendar year.

### 8.5.1 Take homes

The percentage of students receiving a take home was increasingly higher than the percentage of enrolled students during the years 2010 to 2013. However, from 2014 onwards, the take home rate dropped off, and has continued to decrease in recent years. This reduction in take homes is reflected in Table 8.2 – while in 2010 students were 1.2 times more at risk of being issued a take home, this rate reduced to 0.3 in 2019.

### 8.5.2 Suspensions

Students enrolled in FLO settings were overrepresented in suspensions during the years 2010 to 2014; however, similarly to take home statistics, this trend was not observed over the past 5 years. During 2019, FLO students constituted 2.7% of enrolments, but 2.3% of suspensions. Where the relative risk of suspension was 1.2 times higher for FLO students in 2010, this has dropped to below 1 in the past 3 years (Table 8.2)

### 8.5.3 Exclusions

The degree of overrepresentation in exclusion rates is immense for students enrolled in FLO, across all calendar years. A peak is observed in the year 2012, where FLO students made up 3.2% of total enrolments yet accounted for 10.3% of exclusions. This rate has lessened in recent years, potentially due to poor attendance in FLO, yet the percentage of exclusions still more than doubles the percentage of enrolled students during 2019. As shown in Table 8.2, the risk of exclusion for students enrolled in FLO during 2019 was 2.5 times that of other students.

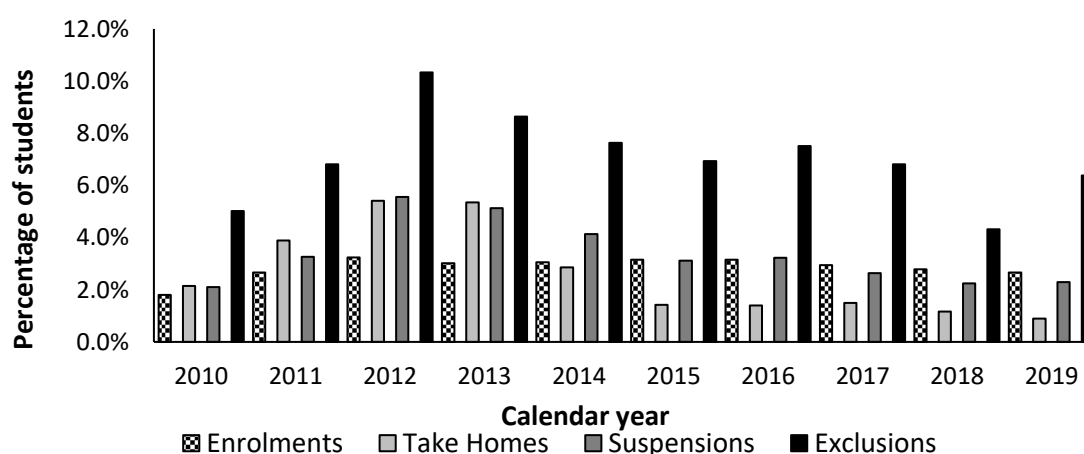


Figure 8.13. Percentage of students enrolled in FLO (R-12) as represented in total enrolments compared to take homes, suspensions, and exclusions, (2010-19). Source: SA Department for Education data collections, unpublished, September 2020.

## 8.6 STUDENTS FROM SCHOOLS IN IOED CATEGORIES 1 TO 3

The South Australian government school system has developed an Index of Educational Disadvantage (IoED) which it uses to classify schools and enable the allocation of resources to address socioeconomic disadvantage. Not unlike the Australian Index of Community Socio-Educational Advantage (ICSEA), the IoED is calculated using measures of parental economic resources, parental education and occupation (based on data from the Australian Bureau of Statistics), Aboriginality, and student mobility (based on SA Department for Education Census Data) (SA Department for Education and Child Protection, 2012).

There are seven IoED categories with Category 1 representing government schools serving the most socio-economically disadvantaged communities in South Australia and Category 7 representing schools serving the least disadvantaged. As discussed in Chapter 2, the highest proportion of students is enrolled in Category 6 schools, while the lowest proportion of students is enrolled in Category 1 schools. Between them, Category 1-3 schools enrolled 31.0% of children and young people attending South Australian government schools in 2019.

The distribution of enrolments across the seven IoED categories has changed over time with a decline in the number of students in Category 1-3 schools, together with an increase in the number of students in Category 4-7 schools (Figure 8.14). The largest enrolment increase over time has been in the most advantaged schools represented by Category 7 (32.1%), followed by Category 5 (16.9%). At the same time, enrolments have declined across Categories 1-3, with the largest decrease occurring in the most disadvantaged schools represented by Category 1 (−3.2%). This shift in enrolment distribution may partially explain patterns in take home, suspensions, and exclusions over time. Our analyses compare rates of exclusionary discipline in Category 1-3 schools to rates in Category 4-7 schools.

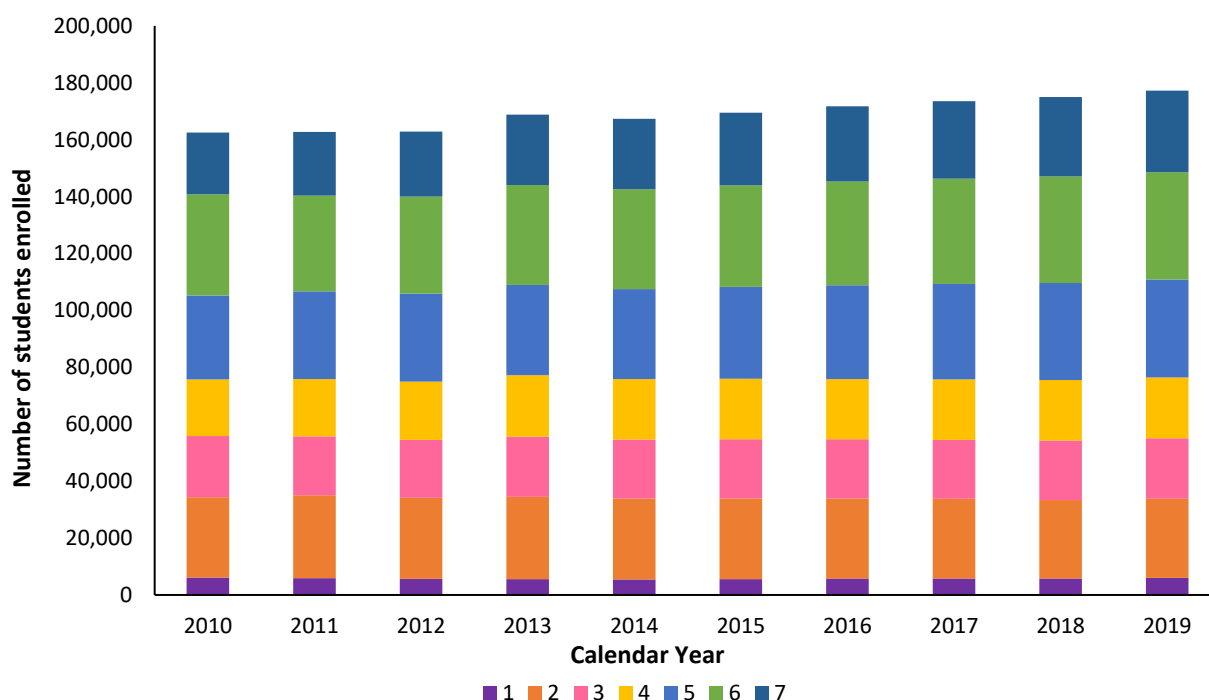


Figure 8.14. Distribution of enrolments in Category 1-7 schools over time, 2010-2019. Source: SA Department for Education data collections, unpublished, September 2020.

### 8.6.1 Take homes – IoED Categories 1-3

As shown in Figure 8.15, students attending Category 1-3 schools are overrepresented in take homes, however, their degree of overrepresentation has decreased slightly over time. In 2010, students attending South Australia’s most socioeconomically disadvantaged schools accounted for 33.0% of total enrolments but 70.0% of all take homes. In 2019, these students declined to 31.0% of total enrolments and 64.2% of take homes. In line with the shift in enrolment distribution, students attending Category 4-7 schools received a higher proportion of take homes over time, increasing from 19.3% of all take homes in 2010 to 32.7% in 2019. This decline in Category 1-3 school enrolments reduced the degree of overrepresentation over time, meaning the relative risk of students in Category 1-3 being sent home declined from 4.7 times that of students in Category 4-7 schools in 2010 to 4.0 in 2019 (see risk ratios in Table 8.2).

### 8.6.2 Suspensions – IoED Categories 1-3

Although students in Category 1-3 schools accounted for only 31.0% of enrolments in 2019, they received 56.3% of suspensions (Figure 8.15). This pattern has not been linear, given the shift in distribution of enrolments from Category 1-3 to 4-7 schools between 2010 and 2019. Category 1-3 schools enrolled fewer students in 2019 than in 2010, however, schools in Categories 1-3 were responsible for the same percentage of suspensions in each of those years. Their overrepresentation therefore increased over time, meaning that students in South Australia’s most disadvantaged schools now face 2.9 times the risk of being suspended than other students, up from 2.6 times the risk in 2010 (Table 8.2).

### 8.6.3 Exclusions – IoED Categories 1-3

Students attending Category 1-3 schools were overrepresented in exclusions every year from 2010 to 2019, however the degree has declined very slightly from 60.6% of exclusions in 2010 to 58.6% in 2019 (Figure 8.15). This decline is so small that their relative risk of being excluded remained at 3.1 times that of students attending Category 4-7 schools.

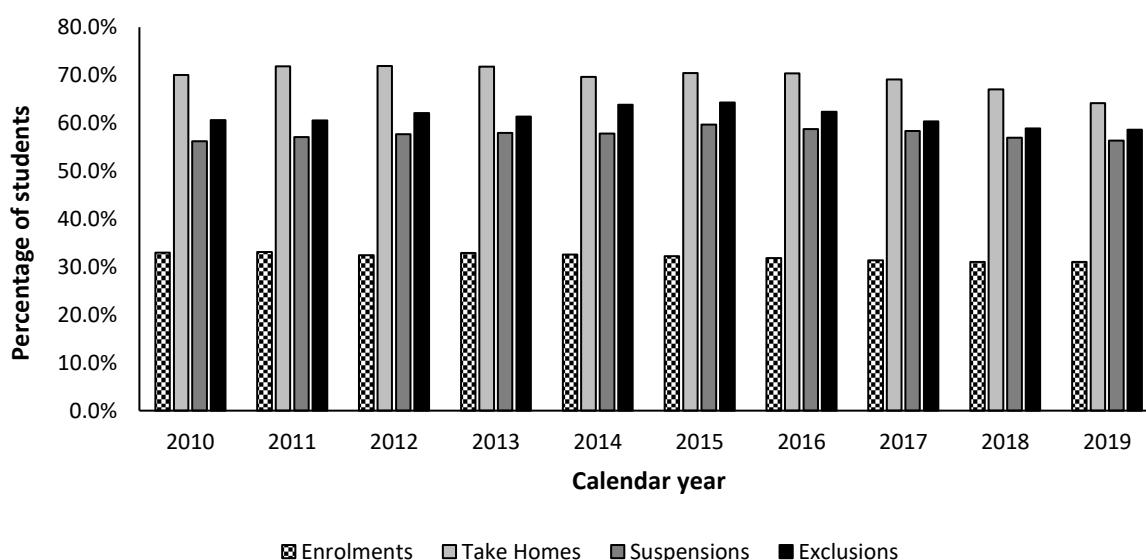


Figure 8.15. Percentage of enrolments, take homes, suspensions, and exclusions in Category 1-3 schools over time, 2010-2019. Source: SA Department for Education data collections, unpublished, September 2020.

## 8.7 INVESTIGATING PREVALENCE AND RISK

As noted in the Executive Summary at the beginning of this report, South Australian government schools are—for the most part—safe and orderly. The vast majority of students each year are not sent home, suspended or excluded. For example, of the 177,246 students enrolled in 2019, only 5,855 (3.3%) were sent home, 10,275 (5.8%) were suspended, 877 (0.5%) were excluded. This means that 96.7% of students were not sent home, 94.2% were not suspended, and 99.5% were not excluded.

The challenge posed to this Inquiry team, however, was to discover who *is* being sent home, suspended, and excluded, whether priority equity groups are overrepresented in these disciplinary responses, and whether the department is doing enough to prevent and address these outcomes.

When investigating the overrepresentation of so-called ‘at-risk’ groups, it is important not to essentialise or stereotype students in those same groups. This is how bias is promoted and becomes embedded in our society. As such, we note the high percentages of students in each of these groups that were *not* sent home, suspended, or excluded in 2019 (Table 8.1). These percentages illustrate that most students, irrespective of which priority equity group they may be associated with, do not get sent home, suspended or excluded.

Table 8.1. Percentage of students in ‘at risk’ groups who did not receive a take home, suspension or exclusion, 2019

‘At-Risk’ Group	Not sent home	Not suspended	Not excluded
Male students	94.9%	91.4%	99.2%
Disability (NCCD)	92.3%	88.9%	98.9%
Disability (NEP/IESP)	90.0%	87.4%	98.6%
Indigenous	89.2%	84.5%	98.5%
Children in care	82.1%	77.0%	96.9%
FLO	98.9%	95.0%	98.8%
IoED Cat. 1-3	93.2%	89.5%	99.1%

Source: SA Department for Education data collections, unpublished, September 2020.

Similarly, it is important to note that these groups are not discrete and that it is entirely possible, for example, for a student to be male, to identify as Aboriginal, to have a disability, to be living in care and to be attending FLO in a Category 1-3 school. This multiplicity of identities is called intersectionality. The intersectionality of risk is difficult to disentangle, however, it is important to try to understand the contribution of additional factors that increase vulnerability. Research from Australia, for example, has found that the combination of Aboriginality and disability compounds the risk of further inequality and disadvantage; e.g., an Aboriginal person may experience greater degrees of disadvantage and inequality than a non-Aboriginal person but when disability is added to the mix, the Aboriginal person’s risk of experiencing inequality and disadvantage is heightened even further (Avery, 2018).

In the following section, we attempt to disentangle these ‘risks’ and we do so for two reasons.

1. Public discourse in Australia overwhelmingly positions students who are sent home, suspended, and excluded from school as wilfully ‘bad’ or ‘naughty’. This framing inevitably shapes the response and justifies the application of punitive consequences with the assumption being that students can and will change their behaviour to avoid

those consequences. The lack of data transparency across sectors as to *who* is being sent home, suspended, and excluded and how possible it actually is for those students to respond to exclusionary discipline in the way assumed has contributed to our collective ignorance on this matter, and the South Australian government is to be commended for their willingness to investigate and address the problem of overrepresentation.

2. It is impossible to devise intelligent policy solutions without understanding for who and what purpose those policies are ultimately being designed. If the majority of take homes, suspensions and exclusions are being received by students who are not in any risk-groups and only incidentally by vulnerable students, then this demands a different policy solution to the alternative. Conversely, if the majority of take homes, suspensions and exclusions are being issued to students in 'at-risk' groups then this raises questions as to which at-risk groups are most affected, whether there is a compounding process at play, and what type of response is most likely to be successful with students in those groups.

In Figures 8.16, 8.18, and 8.20, we outline the distribution of take homes, suspensions and exclusions of students across five disaggregated groups:

- Group 1 **students with a disability** (NCCD) who are not Aboriginal and not in care,
- Group 2 **students identifying as Aboriginal** (without disability and not in care),
- Group 3 **students in care** (who are not Aboriginal and who do not have a disability),
- Group 4 **students who either have a disability or are Aboriginal or living in care, plus at least one or more of these factors;** and
- Group 5 **students who are in none of the above 'risk' groups.**

We then disaggregate even further by (1) examining the distribution of students in Group 5 across IoED categories 1-7 to determine the relative impact of socioeconomic status on those who were ostensibly not in a 'risk' group, and (2) examining the distribution of students within Group 4 to understand the combinations of risks most at play. We investigate each form of exclusionary discipline separately, beginning with take homes.

### 8.7.1 Take homes

As shown in Figure 8.16, 57% of all take homes in 2019 were issued to Group 1 (students who were not Aboriginal and not in care, but who were counted as receiving adjustments for reason of disability in NCCD). The next largest with 22% of all take homes was Group 4 (students who were in two or more risk categories: NCCD disability, living in care, and/or Aboriginal). Students in Groups 2 and 3 (who were Aboriginal or living-in-care and who did not have a disability) accounted for 4% and 1% of take homes, respectively. Collectively, students in these four groups accounted for 84% of take homes, leaving Group 5 with 16% of take homes. When disaggregated by IoED socioeconomic status, however, two-thirds of take homes in Group 5 (66.6%) were issued to students attending Category 1-3 schools. In other words, only one in 20 (5.2%) take homes were received by students who did not have a disability, who were not Aboriginal, who were not in care, and who were not experiencing relatively high levels of socioeconomic disadvantage.

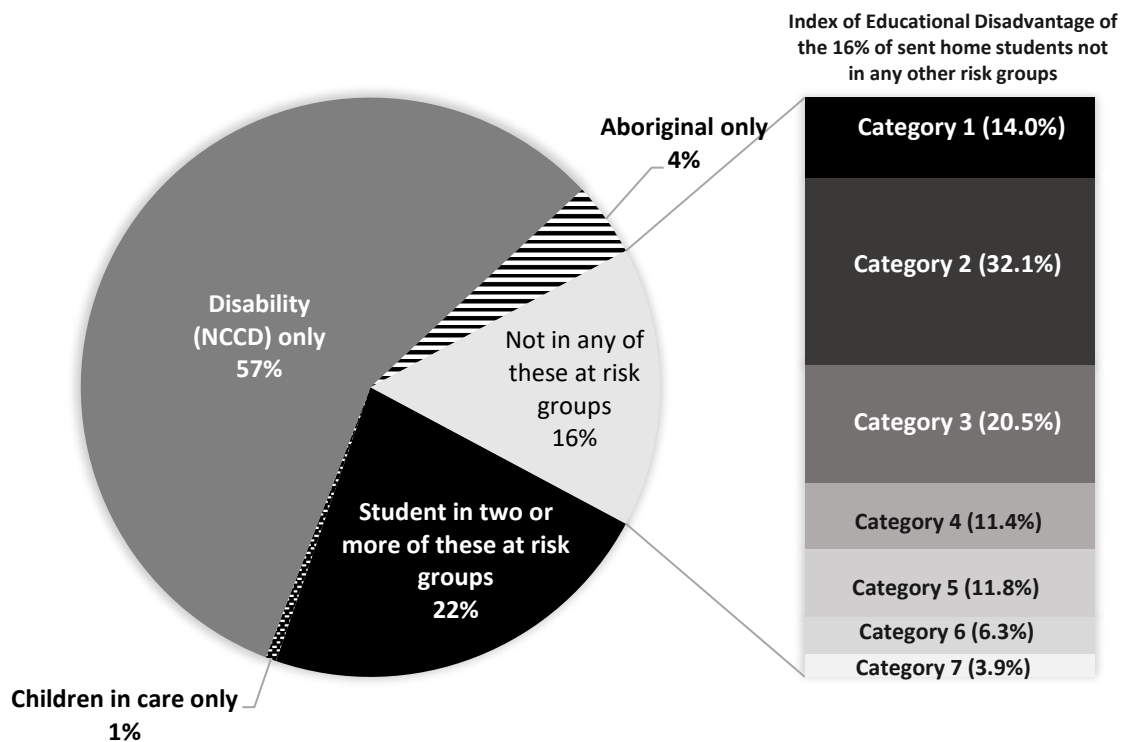


Figure 8.16. Distribution of take homes across risk groups and IoED. Source: SA Department for Education data collections, unpublished, September 2020.

Figure 8.17 provides a further breakdown of the 22% of take home incidents for **Group 4: students in two or more at risk groups**. The largest percentage of incidents for Group 4 was for Aboriginal students with a disability (66%). The next largest group encompassed students living in care with a disability (18%), followed by Aboriginal students with a disability who were also living in care (15%). Finally, only 1% of these students were Aboriginal and in care. Disability was the most common factor across groups with a history of trauma also highly likely.

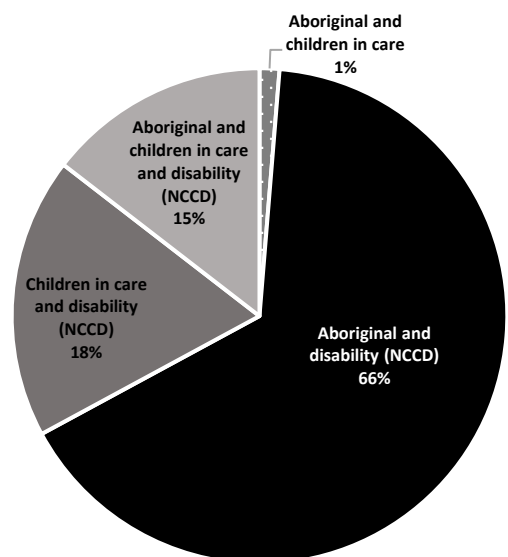


Figure 8.17. Composition of risk groups for Group 4 Take Home (students in 2 or more risk groups).

### 8.7.2 Suspensions

As shown in Figure 8.18, 47% of take homes in 2019 were issued to Group 1 (students who were not Aboriginal and not in care, but who were counted as receiving adjustments for reason of disability in NCCD). The next largest with 17% of all take homes was Group 4 (students who were in two or more risk categories: NCCD disability, living in care, and/or Aboriginal). Groups 2 and 3 (who were Aboriginal or living-in-care and who did not have a disability) accounted for 5% and 1% of suspensions, respectively. Collectively, students in these three at-risk groups accounted for 70% of suspensions, leaving Group 5 with 30% of suspensions. However, when these data were disaggregated by IoED status, just over one in two of these suspensions (53.7%) were issued to students attending Category 1-3 schools. In other words, only 13.9% of suspensions were received by students who did not have a disability, who were not Aboriginal, who were not in care, and who were not experiencing relatively high levels of socioeconomic disadvantage.

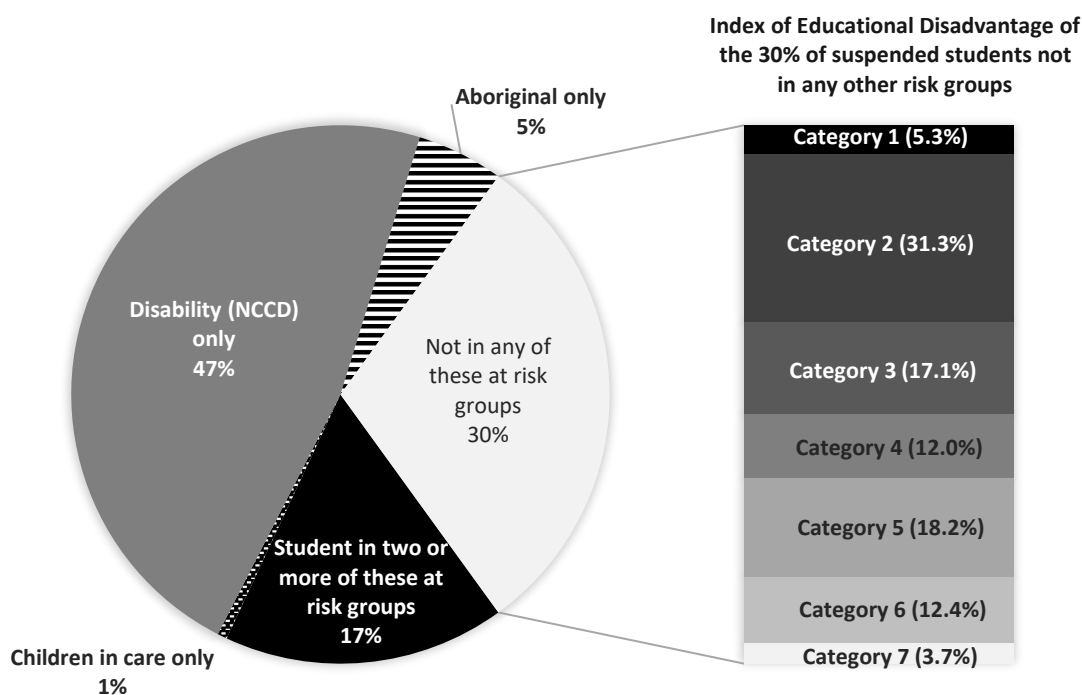


Figure 8.18. Distribution of suspensions across risk groups and IoED. Source: SA Department for Education data collections, unpublished, September 2020.

As with Take Homes, further disaggregation of the students represented in Group 4 is displayed in Figure 8.19 below. The largest percentage of suspension incidents in this group was for Aboriginal students with a disability (67%), followed by children in care with a disability (18%). A further 13% was accounted for by Aboriginal students with disability who were also living in care, and finally, 2% of the group was comprised of Aboriginal students in care (no disability). Again, disability was the most common factor across groups with a history of trauma also highly likely.



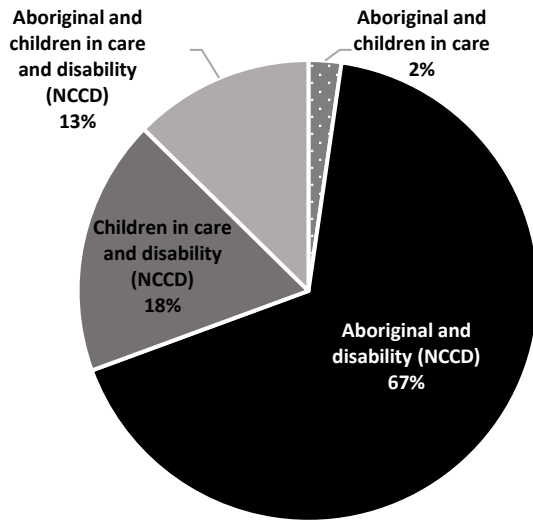


Figure 8.19. Composition of risk groups for Group 4 Suspensions (students in 2 or more risk groups). Source: SA Department for Education data collections, unpublished, September 2020.

### 8.7.3 Exclusions

As shown in Figure 8.20, 50% of exclusions in 2019 were issued to Group 1 (students with disability who were not Aboriginal and not living in care).

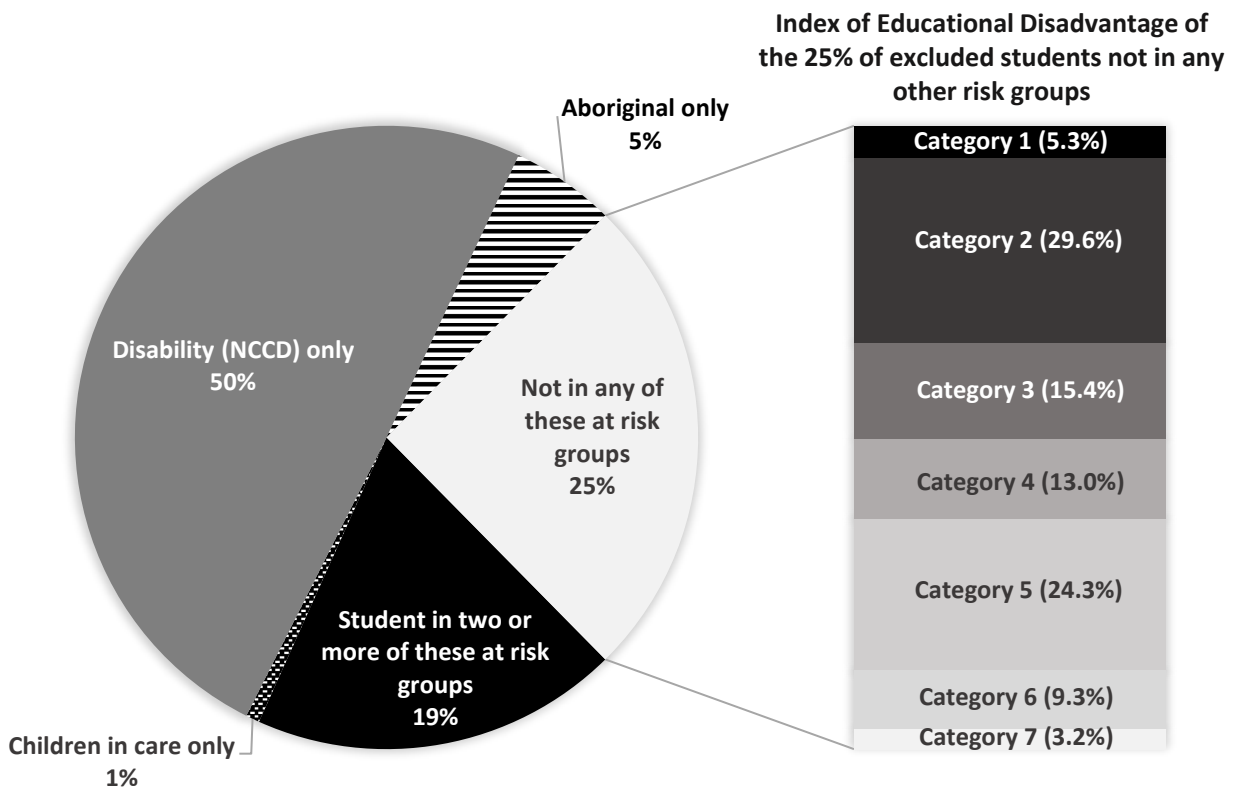


Figure 8.20. Distribution of exclusions across risk groups and IoED. Source: SA Department for Education data collections, unpublished, September 2020.

The next largest with 19% of all exclusions was Group 4 (students who were in two or more risk categories: NCCD disability, living in care, and/or Aboriginal). Groups 2 and 3 (who were Aboriginal or living in care and who did not have a disability) accounted for 5% and 1% of exclusions, respectively. Group 5 accounted for 25% of exclusions, however, when disaggregated by school IoED (socioeconomic status), one in two exclusions were issued to students attending Category 1-3 schools. In other words, only 12.7% of exclusions overall were received by students who did not have a disability, were not Aboriginal, not in care or not experiencing relatively high levels of socioeconomic disadvantage.

Figure 8.21 disaggregates the 19% of exclusion incidents issued to students in two or more at risk groups. As with both take homes and suspensions, the highest percentage of incidents were issued to Aboriginal students with a disability (63%), followed by children in care with a disability (21%), and then students who were in all three groups (12%). The smallest percentage was of Aboriginal students in care (4%).

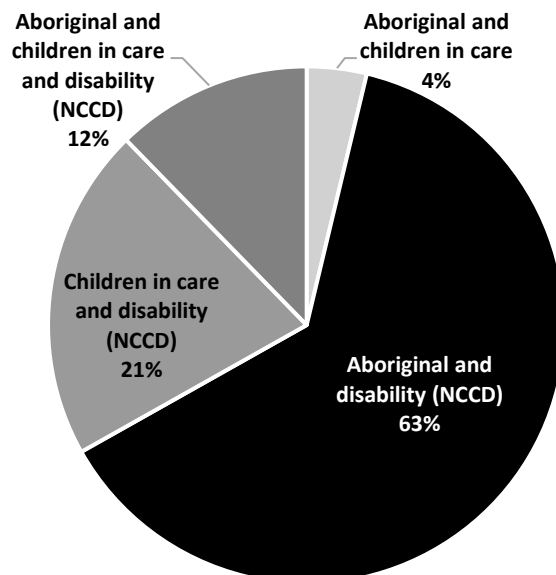


Figure 8.21. Composition of risk groups for Group 4 Exclusions (students in 2 or more risk groups).  
 Source: SA Department for Education data collections, unpublished, September 2020.

Again, like take homes and suspensions, disability was the most common factor across groups with a history of trauma also highly likely.

## 8.8 RELATIVE RISK

Relative risk ratios were calculated for each risk category each calendar year, to determine the degree of representation of suspensions for vulnerable students, in comparison to young people without that risk factor. Importantly, these calculations account for the relative enrolment number of the groups being compared.

A risk ratio of 1 or more indicates that students in a group are at a greater risk of receiving a take home, suspension or exclusion than those in groups with which they were compared. These ratios are presented in Table 8.2 and show that boys, students with a disability, Aboriginal students and students living in care have been overrepresented in take homes, suspensions, and exclusions from 2010 to 2019.

For suspensions, the risk increases over time for each group. Students in care had a high degree of overrepresentation across all calendar years, particularly 2015 and 2017.

Table 8.2

*Risk ratios for suspension and exclusion by risk category and calendar year*

<b>Take homes</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>
Male students	3.5	3.5	3.5	3.8	3.5	3.6	3.5	3.6	3.7	3.5
Disability (NCCD)							4.2	4.4	5.0	5.4
Disability (NEP/IESP)	3.7	3.9	3.9	3.3	3.2	3.4	3.6	3.5	4.0	4.0
Indigenous	4.3	4.2	4.3	4.3	4.4	4.2	4.2	4.0	3.8	3.9
Children in care	5.9	5.6	5.6	6.0	6.6	6.0	6.2	5.8	5.2	5.8
FLO	1.2	1.5	1.7	1.8	0.9	0.4	0.4	0.5	0.4	0.3
IoED Cat. 1-3	4.7	5.2	5.3	5.2	4.7	5.0	5.1	4.9	4.5	4.0
<b>Suspensions</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>
Male students	2.8	2.8	3.1	3.0	3.0	2.9	3.1	3.1	2.9	3.1
Disability (NCCD)	-	-	-	-	-	-	2.6	2.8	3.0	3.1
Disability (NEP/IESP)	2.3	2.3	2.4	2.3	2.3	2.4	2.6	2.6	2.6	2.5
Indigenous	2.5	2.5	2.7	2.7	2.9	2.9	2.9	3.0	2.9	3.0
Children in care	3.2	3.4	4.0	3.9	4.4	4.5	4.5	4.3	4.0	4.1
FLO	1.2	1.2	1.8	1.7	1.4	1.0	1.0	0.9	0.8	0.9
IoED Cat. 1-3	2.6	2.7	2.8	2.8	2.8	3.1	3.0	3.1	2.9	2.9
<b>Exclusions</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>
Male students	3.9	3.6	4.3	3.5	4.1	3.3	4.1	3.8	3.6	3.4
Disability (NCCD)	-	-	-	-	-	-	3.3	4.0	5.3	4.9
Disability (NEP/IESP)	3.6	2.9	3.0	2.6	2.9	2.8	2.9	2.6	3.2	3.6
Indigenous	3.2	3.6	3.0	3.2	3.1	4.3	4.0	3.1	3.7	3.6
Children in care	6.2	5.8	5.5	6.7	6.4	8.1	6.9	7.4	5.8	6.7
FLO	2.9	2.7	3.4	3.0	2.6	2.3	2.5	2.4	1.6	2.5
IoED Cat. 1-3	3.1	3.1	3.4	3.2	3.7	3.8	3.5	3.3	3.2	3.1

Note. Some young people may be represented in more than one category. Source: SA Department for Education data collections, unpublished, September 2020.

## 9 DISENGAGEMENT FROM EDUCATION: PART-TIME & FLEXIBLE OPTIONS

### Terms of Reference:

- the number of children of compulsory school age who have been disengaged from education, including through modified or other enrolment or different options, including home schooling. This should specifically consider the use of take homes, part-time programs, exemptions, [FLO], home-schooling and Open Access.

The Inquiry team requested data on all alternative settings or provisional conditions into which some students migrate during their school education. As we will note in Chapter 10 regarding the keeping of accurate and transparent records and whether sufficient data is being collected to inform departmental policy-making and programs, it has been very difficult to determine how many students are in these settings and how they are affected by exclusionary discipline.

Figure 9.1 displays the composition of enrolments in a range of settings from 2007 to 2019, and indicates an increase in the proportion of students enrolling in alternative settings throughout the period. Note that students can be in more than one category of enrolment and the analyses below are based on data provided. In 2007, the percentage of students in mainstream government schools was 90.8%, while in 2019, it had dropped to 82.6%, a decrease of 9.0%. In contrast, Open Access enrolments rose from 1.1% in 2007 to 2.8% in 2019, an increase of 146.1%. Similarly, FLO enrolments were 0.4% of the total in 2007 but 2.2% in 2019, an increase 489.6%. There were no exemptions recorded in 2007, but in 2008, these comprised 4.4% of enrolments, nearly doubling by 2019, where they accounted for 8.5% (a rise of 95.7%). Primary/Secondary Other combined were 3.8% in 2007 and 3.0% in 2019, dropping by 22%.

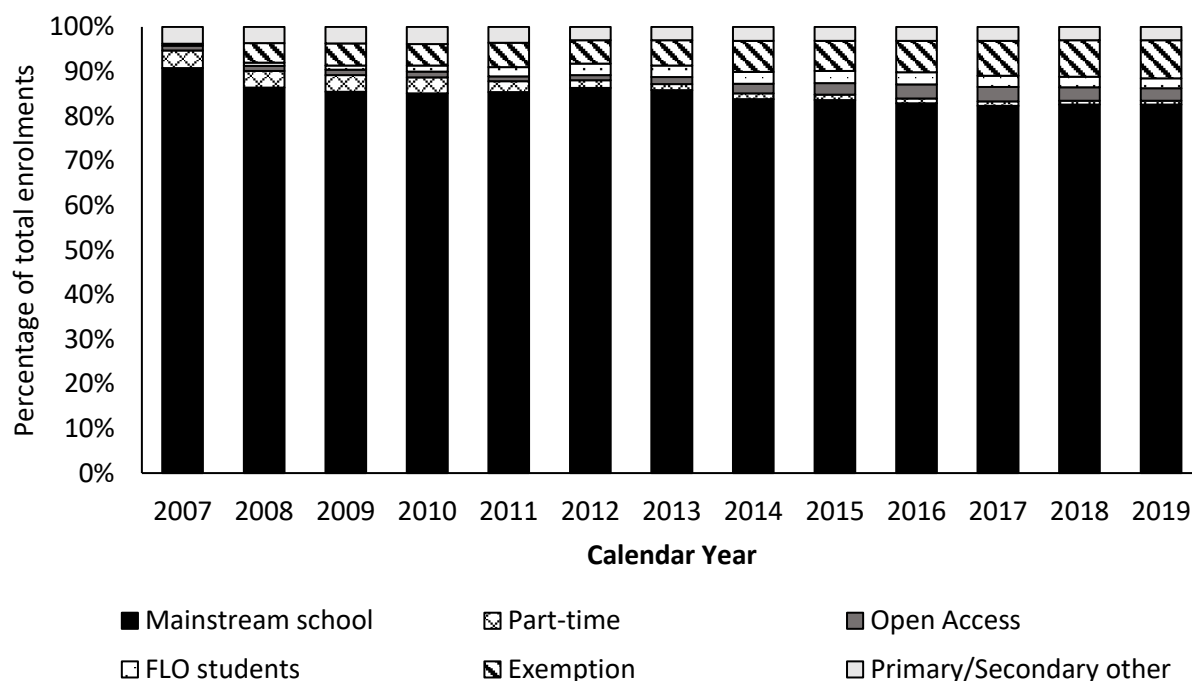


Figure 9.1. Composition of total enrolments (mainstream, segregated, and satellite options). Source: SA Department for Education data collections, unpublished, September 2020.

Students enrolled in these options are not necessarily ‘at risk’ and are not necessarily disengaged from education. For example, according to the SA Department for Education Data Unit, many students do at least one subject through Open Access, and all students can do SACE stage 1 and stage 2 subjects through Open Access if those subjects are not offered at their home school. Similarly, part-time enrolment options and school exemptions are provided for numerous valid reasons which do not suggest disengagement. Primary and Secondary ‘Other’ students represent those who are enrolled in special units or classes. However, as indicated by respondents to the Inquiry consultation and submission process, these satellite options can be used to “offload” students that some schools find difficult to teach. In the following sections, we look at the percentage of students in the designated ‘risk’ groups, noting that we conceptualise risk not in terms of students but in terms of those students being disproportionately subjected to particular practices.

### 9.1 PART-TIME ENROLMENT (GREATER THAN 0 AND LESS THAN 1 FTE)

There were 1,552 students on part-time programs in South Australian government schools during 2019. Figure 9.2 shows the proportion of students with a disability receiving NEP/IESP support, the proportion of children in care, and the proportion of Aboriginal students.

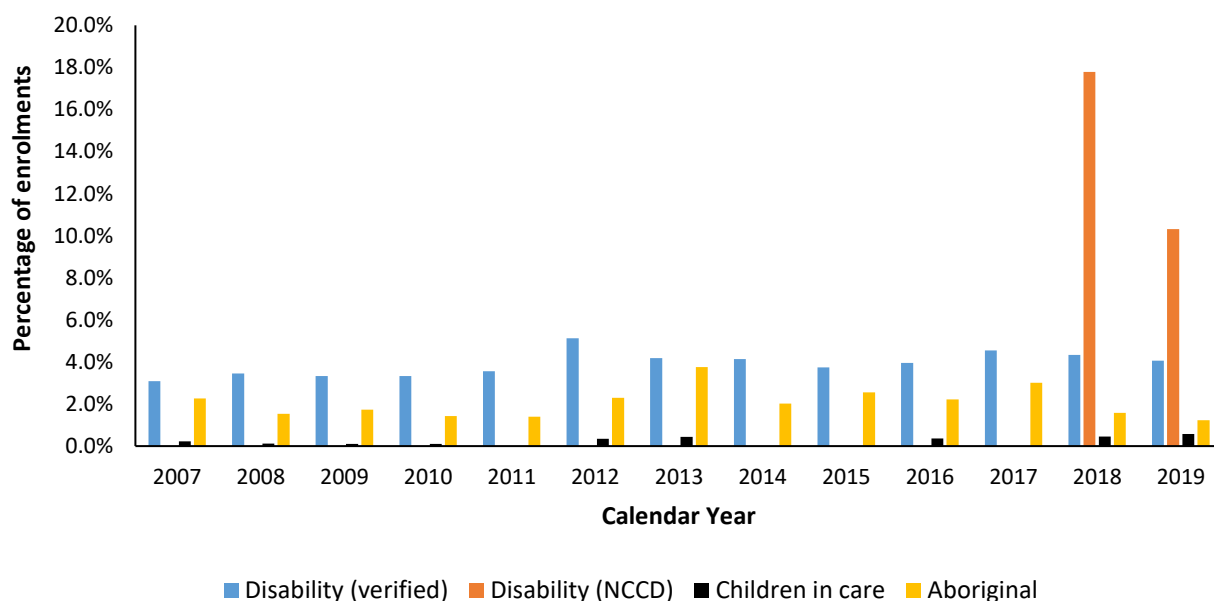


Figure 9.2. Percentage of students with a disability (NEP/IESP and NCCD), Aboriginal students and students living in care recorded as part-time. Source: SA Department for Education data collections, unpublished, September 2020.

Only two years of data is available for students counted as receiving adjustments for disability under NCCD. These students accounted for almost one in five students enrolled part-time in 2018, declining to one in 10 in 2019. Recall that students represented by NEP/IESP and NCCD data are not discrete groups and that those receiving NEP/IESP will also be represented in NCCD data. The number of Aboriginal students on part-time programs declined from 2.3% in 2010 to 1.2% in 2019, and very few students living in care are represented in the data.

These data should be treated with extreme caution, however, as many stakeholders—including education staff across a range of settings and levels of responsibility—stated during consultations that partial attendance arrangements are not necessarily formalised or reported beyond the school level. Parent and carer submissions pointed to significantly higher rates of part-time programs than represented here with some students with disability only being allowed to attend school for an hour or so per day or a couple of days a week.

## 9.2 EXEMPTIONS

According to the South Australian government, parents or carers can apply for an exemption from school attendance for family travel or holidays, medical or health reasons, home education, full-time employment, and disability or behaviour concerns requiring part time exemption from school. Approval is only provided in exceptional circumstances and with the provision of supporting documentation. Other than to allow the student to transition to full-time employment, the intent is for the student to gradually increase their attendance towards full-time.

In 2019, 15,154 students were listed as having an exemption. This number includes any student granted at least one exemption absence during Semester 1 of the year. As shown in Figure 9.3, the group with the highest percentage of representation is students with disability (NEP/IESP) with 9.2% of exemptions, followed by Aboriginal students with 3.6%. Students in primary and secondary other settings typically also have a disability. There were no data recorded for children living in care or students with disability counted as receiving an adjustment in NCCD. This may be because the documentation required may be too difficult for carers to produce, particularly for students in residential care, and because NCCD data is yet to be linked to the data for satellite options.

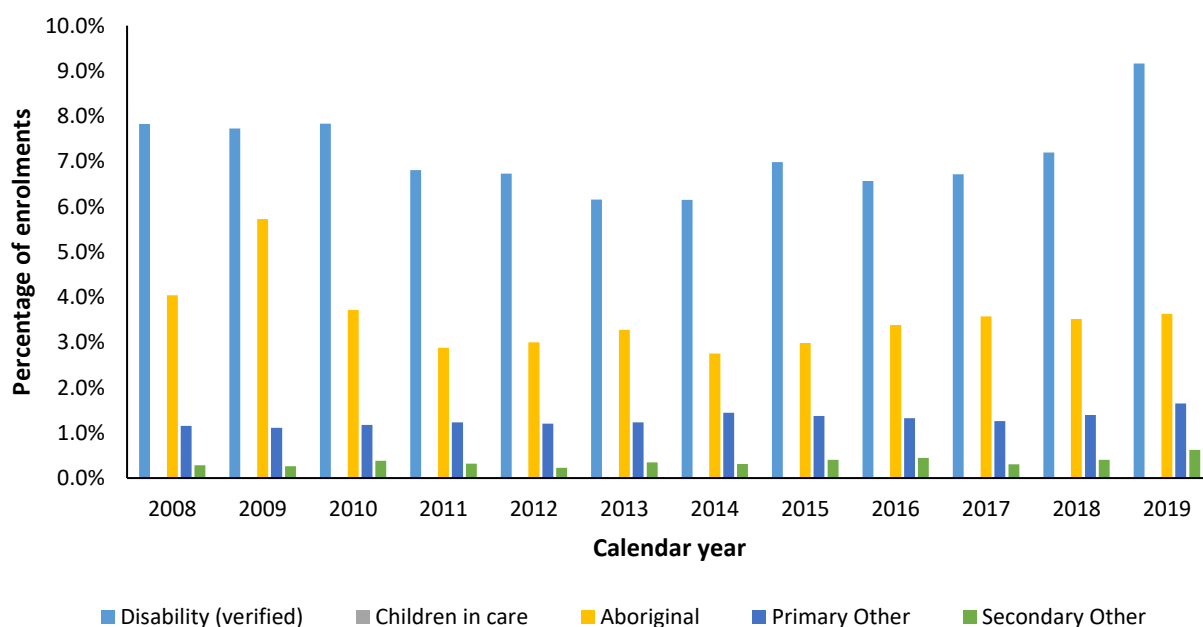


Figure 9.3. Percentage of students with a disability (NEP/IESP and NCCD), in care. Aboriginal, and Primary/Secondary Other students recorded as receiving an exemption from attendance. Source: SA Department for Education data collections, unpublished, September 2020.

### 9.3 OPEN ACCESS COLLEGE

According to the My School website there were 4,911 students enrolled in OAC in 2019, 49.6% of which were boys and 50.4% girls. The Inquiry team requested data from the SA Department for Education Data Unit relating to Aboriginal students, students living in care and students with disability (Figure 9.4). According to the data received, students receiving NEP/IESP funding accounted for one in 10 OAC students, however, in their 2019 annual report the OAC is stated as catering “for more than 60% of students with verified disabilities in our Central East Partnership”.

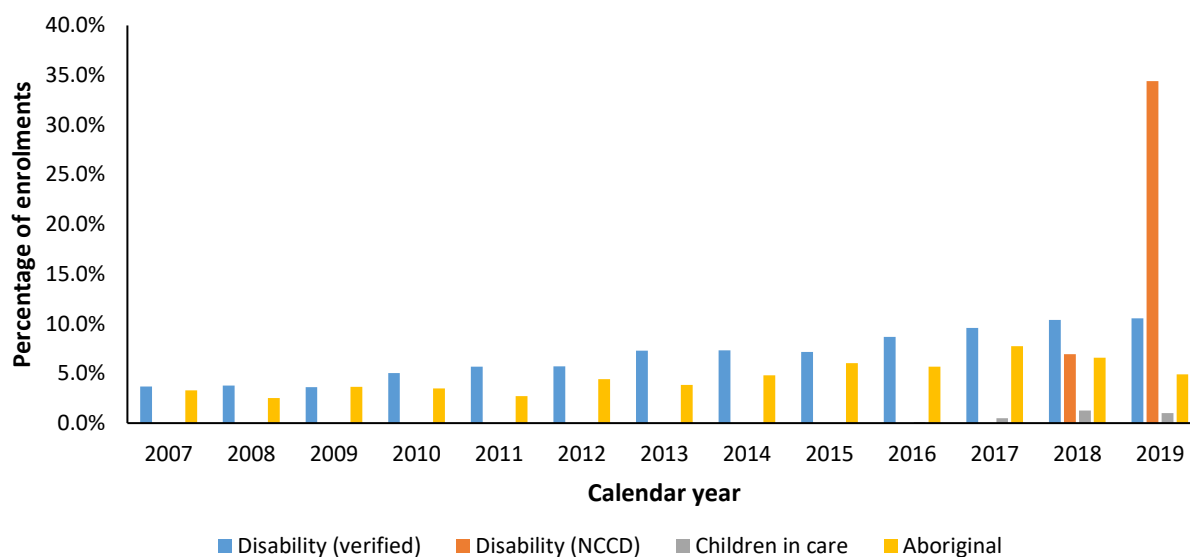


Figure 9.4. Percentage of students with a disability (NEP/IESP and NCCD), in care and Aboriginal students reported to be accessing their education through Open Access. Source: SA Department for Education data collections, unpublished, September 2020.

NCCD data is only available for 2018 and 2019 but indicates that more than one third of OAC’s students were counted as receiving an adjustment on the basis of disability in NCCD in 2019. Also in 2019, Aboriginal students accounted for 4.9% of OAC students and students living in care represented 1.0%.

### 9.4 FLEXIBLE LEARNING OPTIONS (FLO)

As shown in Figure 9.5, students with a disability receiving individually targeted funding through the NEP (2010-2018) and IESP (2019–) support programs are clearly over-represented in FLO, as are Aboriginal students.

In 2019, 3,962 students were enrolled in FLO. Students receiving NEP/IESP funding accounted for only 10.8% of total enrolments in 2019 yet represented 19.0% of students in FLO. Their proportion has decreased since 2010, when students receiving NEP funding accounted for 9.0% of total enrolments but represented 25.2% of FLO students. Despite this decrease, these students are still over-represented. This finding is extremely concerning given evidence that alternative settings, such as FLOs, are not equipped to support students with complex learning profiles (Snow et al., 2019).

Figure 9.5 shows that close to one in five FLO students in 2019 were either Aboriginal (16.7%) or have a disability (19.0%) that qualifies for individually targeted funding (NCCD data was not available for this analysis). Reports heard from stakeholders during consultation that funding for Aboriginal students and students with disability is being siphoned off to mainstream and not being directed to support those students in FLO demands urgent independent investigation, given the high percentage of both groups in FLO.

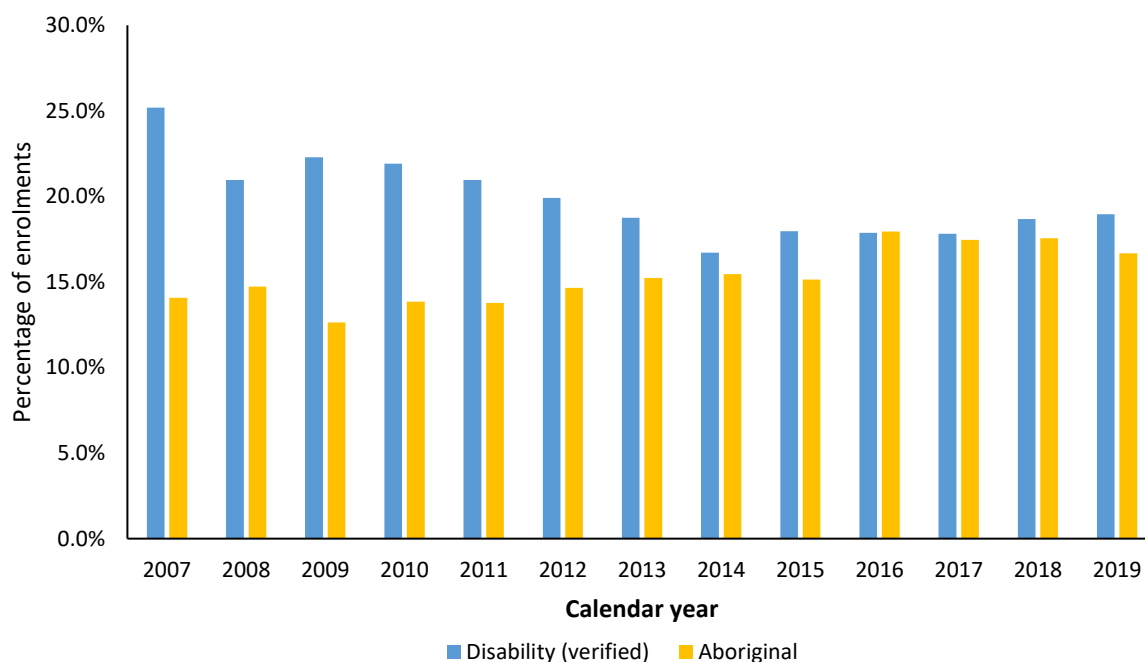


Figure 9.5. Percentage of students with a disability (NEP/IESP) and Aboriginal students recorded as enrolled in Flexible Learning Options (FLO). Source: SA Department for Education data collections, unpublished, September 2020.

Further, reports that attendance in FLO is extremely lax and that student outcomes are poor, highlight the inappropriateness of diverting such students into what can only be described as a lower quality option. Questions must also be asked about the use of the funding supposedly being directed to these students, how it is being spent and on whom when a significant number may not be attending and thus not receiving an education.

## 9.5 HOME-SCHOOLING

The Home Education Unit (HEU) records the number of students who are registered as being home-schooled, and, since 2012, they have collected data regarding whether these young people have special needs or are Aboriginal / Torres Strait Islander. According to the HEU, special needs can indicate a diagnosed disability, but may also reflect undiagnosed learning difficulties or issues related to mental health. Both formal assessment and parental self-report are used to inform these data. HEU data indicate that the most common diagnosis for these young people is Autism.



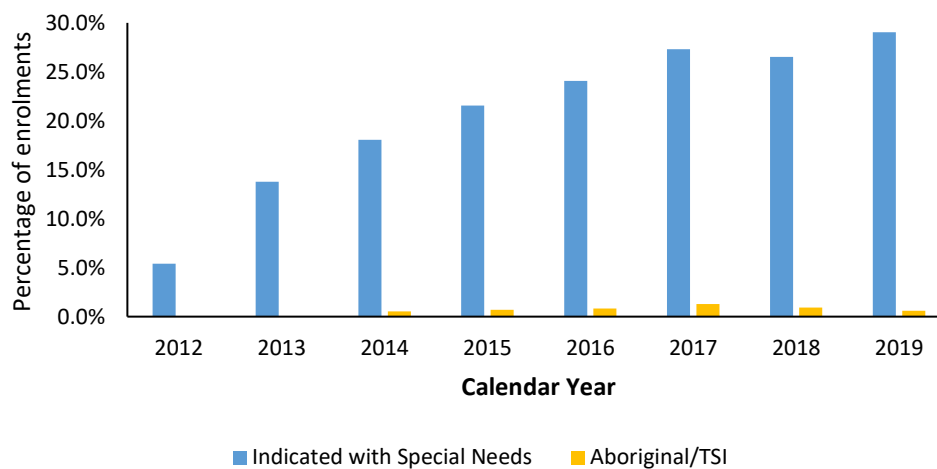


Figure 9.6. Percentage of students indicated as having special needs and Aboriginal students recorded as being home-schooled. Source: SA Department for Education data collections, unpublished, September 2020.

In 2019, 1,360 students were registered by the HEU. Figure 9.6 displays the high representation of students with special needs within the home-schooling population, and the steep increase of that percentage over the past 8 years, with close to a third (29%) of young people home-schooled in 2019 being classified within this category.

## 9.6 FUNDING TO SUPPORT STUDENTS, PROGRAMS AND SETTINGS

Due to multiple comments about the inadequacy of funding for students with disability, particularly from school staff, together with the requirement to examine the use of exclusionary discipline to access support funding, the Inquiry team requested financial data from the SA Department for Education. These data included total education budget expenditure and disaggregated for students with disability (including that expended on special classes, special units and special schools), behaviour centres and Flexible Learning Options (FLO) for the 10 years from 2010 to 2019. In the following sections, we examine each of these provisions more closely as there are different trends in each.

### 9.6.1 Funding for students with disability

Funding to support students with disability has increased by 143.1% since 2010, rising from 4.2% to 7.2% of the total education budget, which has itself only increased by 55.6%. As shown in Figure 9.7, funding for students in regular (mainstream) schools accounts for the largest proportion of funding, as well as the greatest percentage of increase.

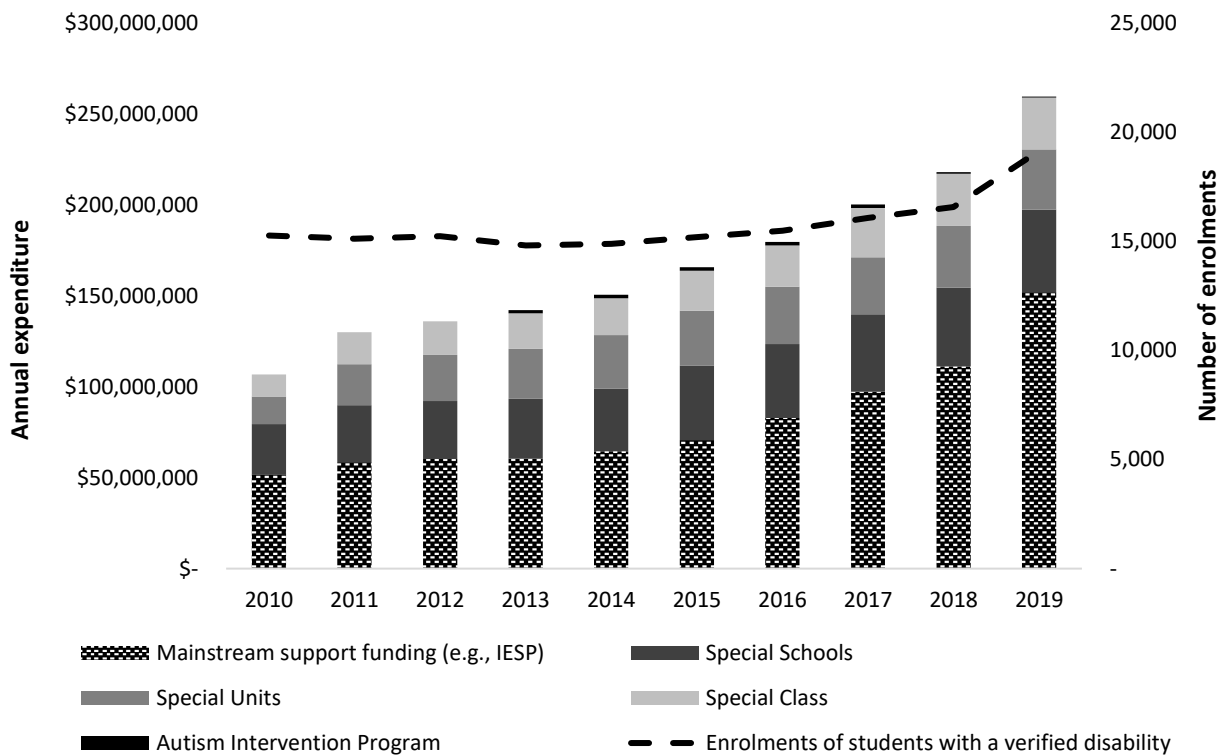


Figure 9.7. Funding and programs to support students with disability in mainstream schools, special classes, units and schools from 2010 to 2019. Source: Reconciled Resource Allocation Statement, SA Department for Education, unpublished, September 2020.

Over time the share of funding to segregated settings has decreased relative to funding to support students with disability in mainstream schools. In 2010, special classes, units and schools accounted for 51.5% of funding for students with disability. By 2019, and in accordance with Australia’s obligation to transfer funding from segregated to inclusive settings as per the CRPD (United Nations, 2008; 2016), this proportion had declined to 41.4%. It has not come at the expense of segregated settings, however, as funding for special classes, units and schools increased by 95.5% over the 10-year period. Like funding for students with a disability in mainstream schools, this is not simply an artefact of inflation, as funding for special classes, units and schools now accounts for a larger share of the overall education budget, rising from 2.2% to 3.0% of total expenditure between 2010 and 2019. The greatest increase in funding for students with disability commenced in 2016, reflecting dispersal of funding from the Australian government through NCCD and increases in the Students with Learning Difficulties Grant, as negotiated with the AEU (SA Branch<sup>7</sup>). These increases were fuelled by a significant rise in 2019 when the SA Department for Education introduced the Inclusive Education Support Program (IESP), developed to better align resource allocation with the NCCD.

<sup>7</sup> Australian Education Union (SA Branch) (n.d.). *Special Education*. Australian Education Union. [https://www.aeusa.asn.au/AEUSA/Your\\_Interests/Special\\_Education/AEUSA/Interest\\_Groups/Special\\_Education/Special%20Education%20page.aspx?hkey=2491fd9f-3716-4f35-9d82-ce670cc7765a](https://www.aeusa.asn.au/AEUSA/Your_Interests/Special_Education/AEUSA/Interest_Groups/Special_Education/Special%20Education%20page.aspx?hkey=2491fd9f-3716-4f35-9d82-ce670cc7765a)

### 9.6.2 Funding for Flexible Learning Options

As shown in Section 8.5, enrolments in FLO increased markedly following recommendations made in the 2012 and 2013 reports from Deloitte Access Economics. Between 2010 and 2019, total FLO funding increased by 128.8%, rising from 0.6% to 1.0% of the total education budget. Funding for and enrolments in FLO peaked in 2016.

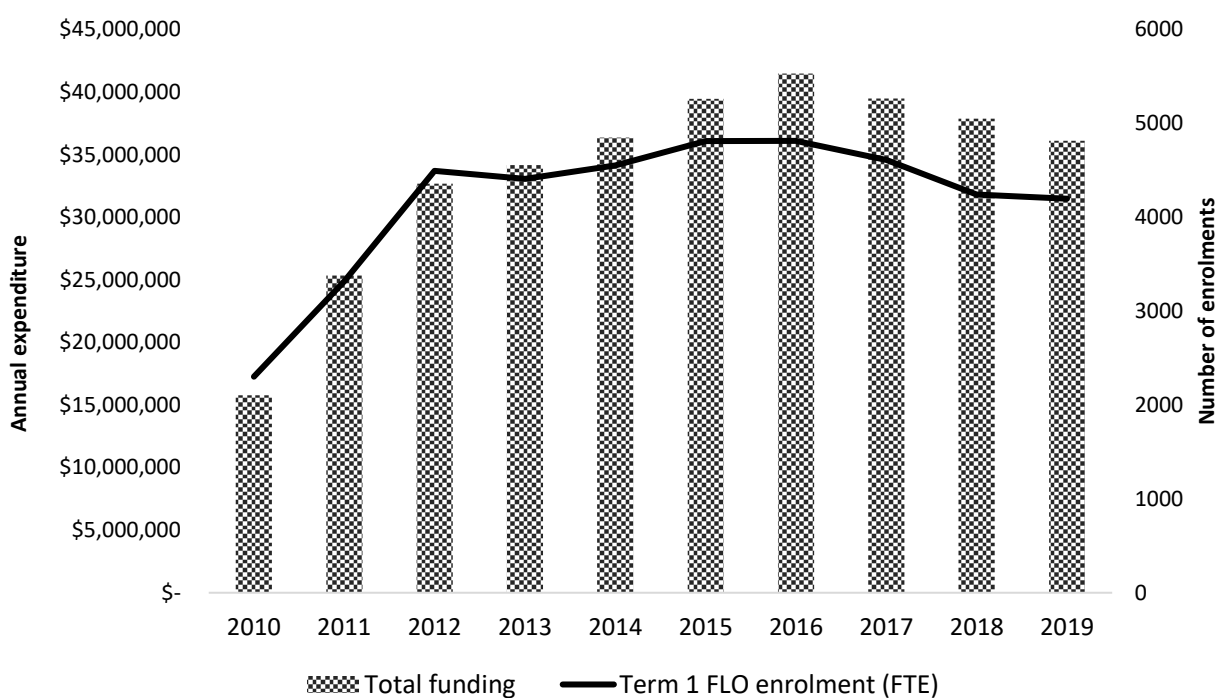


Figure 9.8. Funding and student enrolments for FLO from 2010 to 2019. Source: Reconciled Resource Allocation Statement, SA Department for Education, unpublished, September 2020.

### 9.6.3 Funding for Behaviour Centres

Between 2010 and 2019, funding for behaviour centres increased by 625.2%, rising from 0.02% to 0.09% of the total budget. Despite this increase, funding of behaviour centres is dwarfed by that spent on FLO, special classes, units and schools, and students with disability in mainstream schools.

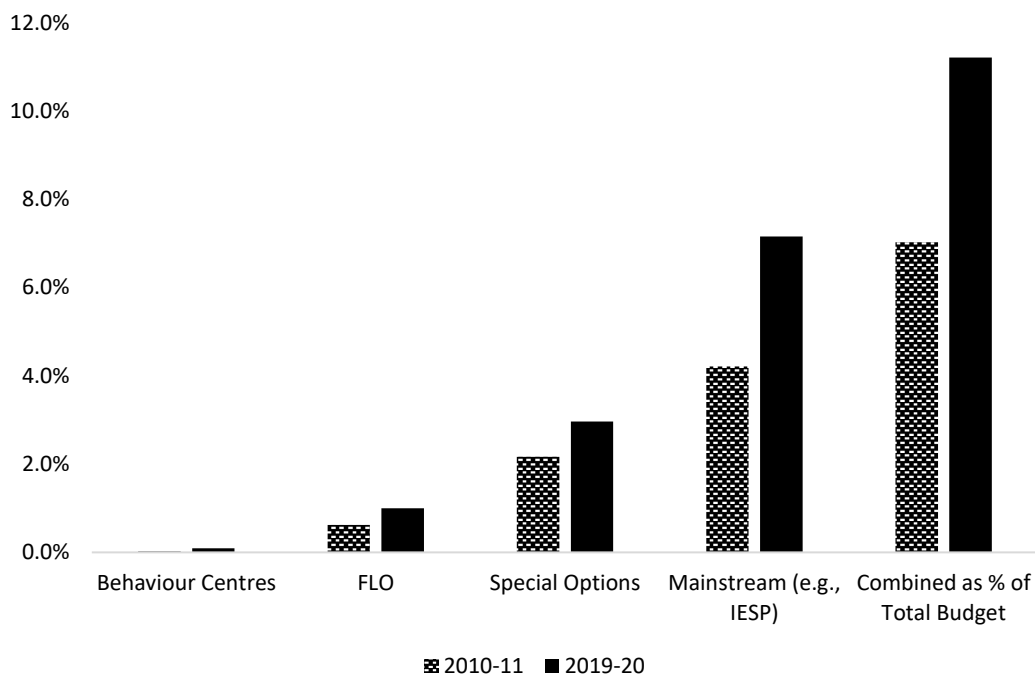


Figure 9.9. Support funding as a percentage of the total education budget for each of the support types, comparing 2010 and 2019. Source: Reconciled Resource Allocation Statement, SA Department for Education, unpublished, September 2020.

Our analyses of the raw data suggest that total education budget expenditure has increased by 43.1% from 2010 to 2019, while funding for the above supports combined (IESP, special classes, units and schools, FLO and behaviour centres) has increased by 128.4% with the greatest funding increases occurring in FLO and to support students with disability enrolled in mainstream schools. This increase in funding for support provisions relative to the increase in overall education budget expenditure has resulted in funding for those provisions accounting for a larger share of the education budget, rising from 7.0% to 11.2% of the total budget. These increases cannot therefore be attributed to inflation and instead reflect real injections of additional funding.

These findings raise very serious questions in relation to the use of funding in SA government schools and the effectiveness of these support provisions, given that this funding growth has occurred alongside exponential increases in the use of exclusionary discipline. In our earlier analyses, we identified failures to provide reasonable adjustments to students with disability, factors that are potentially leading to or exacerbating behaviours for which those students are sent home, suspended or excluded. Further, we identified patterns in the incidence of suspension and exclusion over time that strongly suggest students in FLO are not actually “in FLO”; as in, they do not attend frequently enough to be suspended or excluded, although these patterns were correlational and further investigation was not possible due to lack of attendance data. In the following section, we note the lack of availability of data to enable us to answer questions in relation to FLO attendance and effectiveness.

## 9.7 ASSOCIATIONS BETWEEN THE USE OF EXCLUSIONARY DISCIPLINE AND NAPLAN OUTCOMES

Stakeholders expressed an interest in learning the associations between the use of suspensions and exclusions and academic achievement. Consequently, the Inquiry Team requested data from the SA Department for Education to investigate the impact of suspension or exclusion on NAPLAN outcomes. A longitudinal retrospective analysis was conducted for students who completed Year 9 in 2019 ( $N = 11,937$ ). NAPLAN data were obtained for this cohort from their Year 3 (2013), Year 5 (2015), Year 7 (2017), and Year 9 tests (2019).

Analyses were conducted comparing Reading (subtest of Literacy) and Numeracy outcomes for each adjacent NAPLAN test, using the earlier testing period as a baseline (e.g., Year 3 compared to Year 5). Specifically, these analyses compare the percentage of students meeting NAPLAN standard in the baseline and comparison year, and whether this percentage changes over time. Following this, we present the trajectories of the cohort across all four tests.

As requested by the SA Department for Education, the achievement standard for NAPLAN was calculated per the department's Standard of Education Achievement (SEA), rather than the National Minimum Standard (NMS, per ACARA). While the state-level NMS includes students who are in achievement bands above the lowest proficiency band (and imputes results for withdrawn/absent students), the minimum standard of the SEA is one band higher than the NMS, and no withdrawn/absent results are imputed. We represent the percentage of withdrawn/absent students in the first three analyses.

For each of these analyses, we compare two groups: 1) students who had never received a suspension or exclusion while at school, and 2) students who had received a suspension or exclusion throughout the period in which tests were conducted (e.g., 2013-2015 for Year 3-5 NAPLAN tests). The first group was the same in every analysis ( $n = 9,154$ ), while the second group varied from one analysis to the next ( $n = 938$  in Year 3-5, 1,355 in Year 5-7, and 2,381 in Year 7-9).

In the first three analyses, we exclude students who were suspended or excluded during any years other than the period under investigation. This was done to ensure that NAPLAN outcomes were not being interpreted on the basis of a student being suspended many years earlier or later than the testing period. However, we note that in other analyses (not presented here), we found that including these students as part of Group 2 did not alter interpretation of the findings. In our final analyses investigating overall trends, we looked at the entire cohort.

### 9.7.1 Year 3 to Year 5

NAPLAN outcomes are presented in Figure 9.10, according to whether students had any history of suspension or exclusion. Of the students who had not been issued a suspension/exclusion during their time at school, the percentage of students meeting SEA for the Reading test decreased from 79.6% (Year 3) to 72.8% (Year 5), reflecting an 8.6% decrease from Year 3 to Year 5. However, for the group of students who had experienced suspension or exclusion during 2013-2015, the percentage of students was reduced by a much higher 23.4% between the years for Reading (46.1% in Year 3, 35.3% in Year 5).

For Numeracy, there was an 8.8% decrease in students meeting SEA for those with no suspension history, dropping from 79.2% to 72.2%. For students who were issued suspensions/exclusions throughout this period, there was a 25.8% reduction (47.9% in Year 3, 35.6% in Year 5).

It is also notable that the percentage of students who are withdrawn/absent on NAPLAN testing days is greater in the group of students who have been issued suspensions, in both year levels, and on both tests. As an example, the percentage of withdrawn/absent students is 5.9% in students who do not receive any suspensions or exclusions in Year 3, yet represents 17.0% of those who are suspended. Calculation of risk ratios indicated that on both Reading and Numeracy subtests, suspended/excluded students were 2.9 times more likely to be withdrawn/absent than students without suspensions/exclusions in Year 3. In Year 5, these students were 3.0 times more likely to be withdrawn/absent for Reading, and 2.9 times for Numeracy. While students may be excused from participation for a valid reason (i.e., exempt students, who are not included in these analyses), students who are withdrawn or absent are those who are expected to undertake NAPLAN testing, and do not have a reason for missing the test.

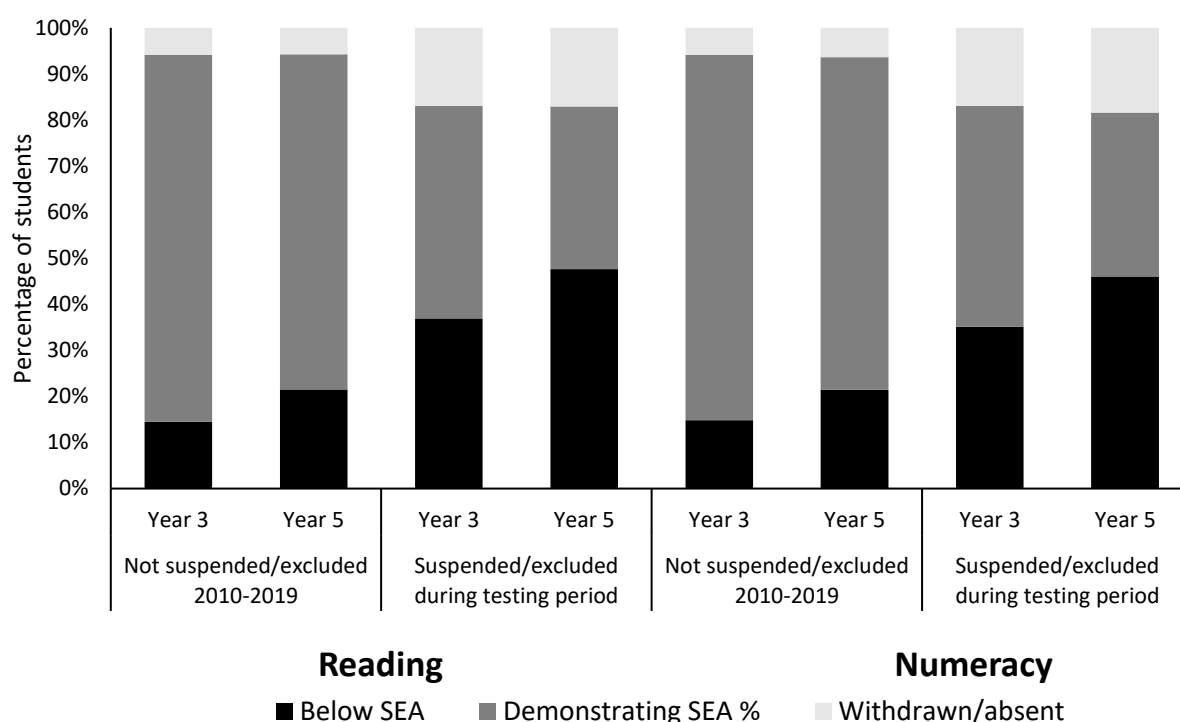


Figure 9.10. NAPLAN outcomes for Year 3 (2013) and Year 5 (2015) according to whether students had been issued a suspension/exclusion. SEA = Standard of Educational Achievement.

### 9.7.2 Year 5 to Year 7

Of the students who had no history of suspension/exclusion during their time at school (Figure 9.11), the percentage of students meeting SEA for the Reading test rose from 72.8% (Year 5) to 80.1% (Year 7), reflecting a 10.0% increase from Year 5 to Year 7. For the group of students who had been suspended or excluded during these years, there was a comparable 12.9% increase in the percentage of students demonstrating SEA in Year 5 (39.0%) to Year 7 (44.0%). For Numeracy, there was an increase of 11.5% in students with no history of suspension or exclusion (rising from 72.2% to 80.5%), and an increase of 9.2% for those who had been suspended or excluded (40.6% to 44.3%). Thus, although the percentage increase was similar between the groups, for both Reading and Numeracy, it is worth noting that there was a substantial difference in the proportion of students meeting department standards between students with and without suspensions, in either year level.

As with the previous analysis, the rate of withdrawn/absent students is much higher in students who have been suspended or excluded, ranging from 13.7% (Year 5 Reading) to 16.5% (Year 7 Numeracy). In contrast, for students not issued any suspensions/exclusions, the highest percentage of withdrawn/absent students is 6.4% (Year 5 Numeracy). In Year 5 Reading, suspended/excluded students were 2.4 times more likely than non-suspended to be withdrawn/absent, and for Numeracy, they were 2.3 times more likely. In Year 7, suspended students were 2.8 times more likely to be withdrawn/absent than students without any suspensions/exclusions, on both tests.

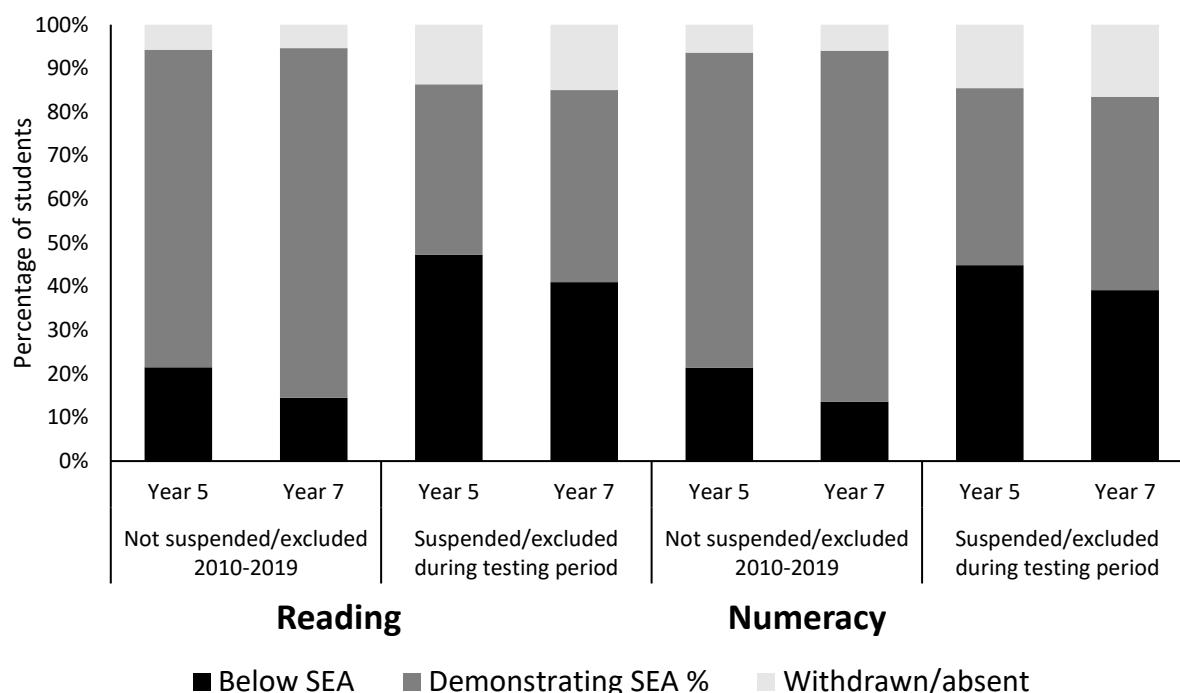


Figure 9.11. NAPLAN outcomes for Year 5 (2015) and Year 7 (2017) according to whether students had been issued a suspension/exclusion. SEA = Standard of Educational Achievement.

### 9.7.3 Year 7 to Year 9

The association between suspension history and NAPLAN outcomes is most pronounced when comparing Year 7 to Year 9 outcomes. Figure 9.12 displays Year 7 and 9 NAPLAN outcomes, for students who had never received a suspension or exclusion, and students who received at least one during 2017-2019. Of the students who had no history of suspension/exclusion during their time at school, the percentage of students meeting the department standard for the Reading test dropped from 80.1% (Year 7) to 72.5% (Year 9), reflecting an 9.5% decrease. For the group of students who had experienced suspension or exclusion in these years, there was a 33.4% decrease in the percentage of students achieving SEA.

For Numeracy, there was a decrease of 9.4% in those meeting SEA for students with no suspensions or exclusions throughout school (80.5% to 72.9%); however, for those who had received suspensions and exclusions during 2017-2019, there was a 31.1% decrease (53.8% to 37.0%).

For students who received suspensions/exclusions during 2017-2019, the percentage of students who were withdrawn/absent ranged from 10.8% (Year 7 Reading) up to 29.9% (Year

9 Numeracy). In contrast, for students who had no history of suspension, the highest percentage of withdrawn/absent students was 11.2% (Year 9 Numeracy), with most tests having a far lower rate than this. Students in Year 7 who had received suspensions/exclusions were 2.0 times more likely to be withdrawn/absent on the Reading Test, and 2.1 times on the Numeracy test. In Year 9, these students were 2.9 times more likely to be withdrawn/absent for Reading, and 2.7 times for Numeracy.

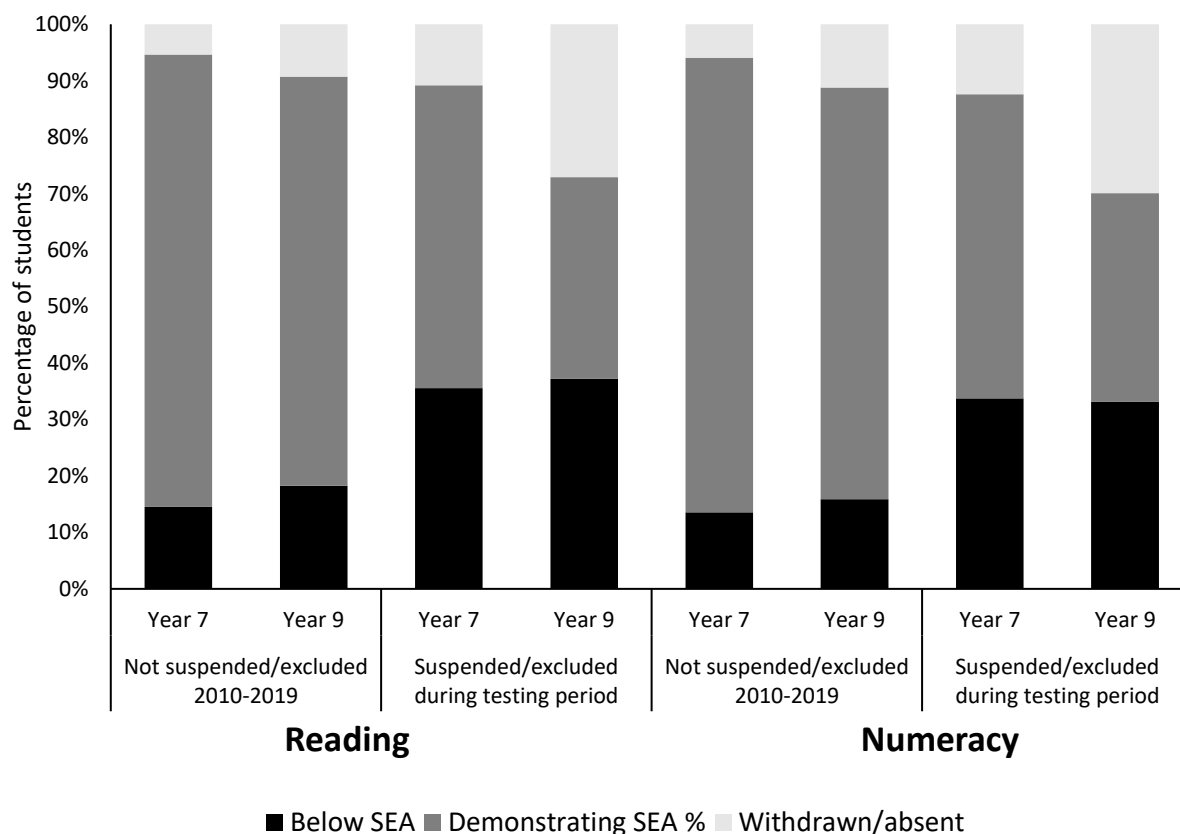


Figure 9.12. NAPLAN outcomes for Year 7 (2017) and Year 9 (2019) according to whether students had been issued a suspension/exclusion. SEA = Standard of Educational Achievement.

#### 9.7.4 Overall – Year 3 to Year 9

The two groups under investigation in the overall analysis shown in Figure 9.13 below were derived on the basis of whether students had been issued *any* suspensions or exclusions during 2010 to 2019, as the data do not enable disaggregation in terms of precisely when the suspensions and exclusions took place. However, the available data clearly indicate that the group of 2,783 students with a disciplinary history were predominantly issued these suspensions/exclusions during Years 7 to 9, coinciding with the reduced number of students demonstrating SEA in NAPLAN. While we cannot make causal inferences from these data, there is an evident pattern of lower achievement levels for students who are being suspended or excluded during the years in which the tests are undertaken, and there is a far greater proportion of students in these groups who are absent or withdrawn. Further, we were advised that:

“Care needs to be taken in interpreting these results. There are many confounders related to NAPLAN result. For example, a student’s disability type, Aboriginality, being from a lower



SES background, etc. Care should be taken as to not attribute NAPLAN results to just behaviour incidents. To make valid comparison to sub-populations of students we may need to look at other students of similar backgrounds and statistically model the results.” (DfE Data Unit, October 2020).

Figure 9.13 displays the percentage of this cohort of students who meet SEA in each of the four NAPLAN tests, based on whether they were issued any suspensions or exclusions during their time at school. While there are discrepancies between these two groups’ NAPLAN outcomes in Year 3 (e.g., 79.6% of the students who with no SEE history demonstrating SEA for Reading, compared to 56.3% of students with a history), these gaps increasingly widen across the schooling years, and the contrast is particularly apparent when considering the Grade 9 outcomes (e.g., 72.5% of students with no SEE history compared to 36.6% of students with a history).

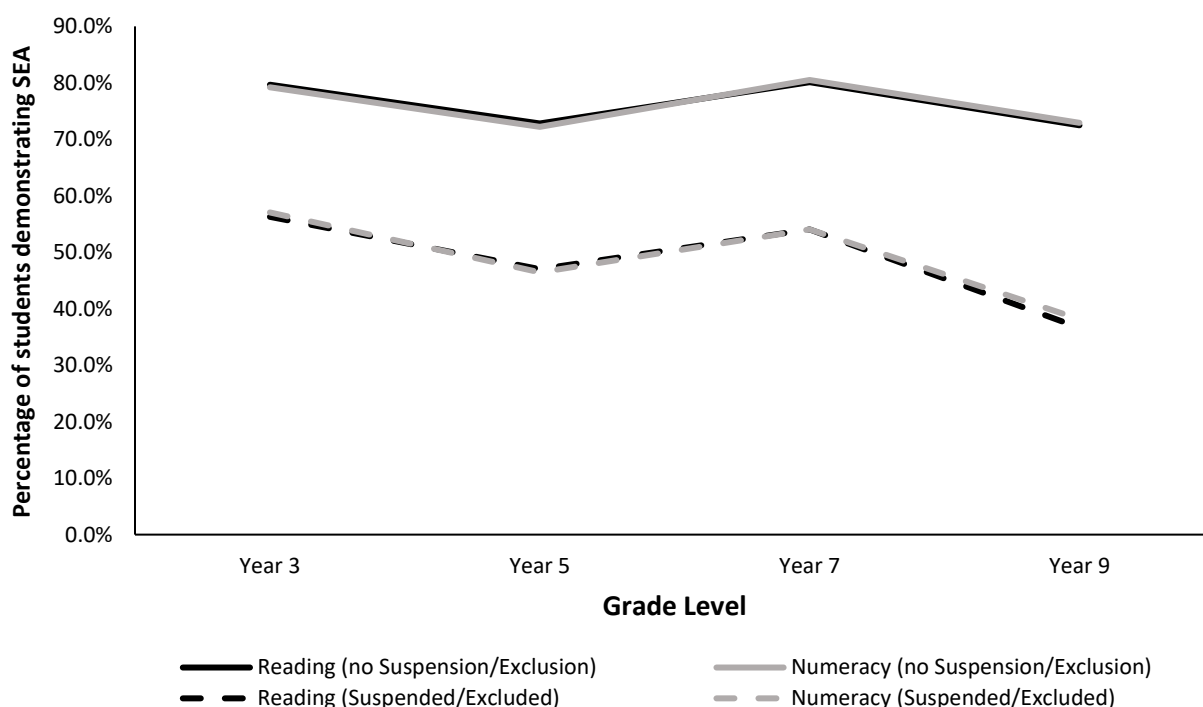



Figure 9.13. Percentage of students demonstrating SEA based on whether they have been suspended/excluded during their time at school, Year 3 to Year 9. SEA = Standard of Educational Achievement.

While again purely correlational, the analyses presented in this section raise important questions about the association between NAPLAN outcomes and the use of exclusionary discipline. The data clearly show that students who are suspended or excluded have lower achievement levels and are more likely to be absent/withdrawn from the tests. In particular, this latter finding requires more detailed examination, as it could suggest that certain students may be being withdrawn from tests in an effort to improve overall test scores. We note that the stakeholders who suggested we undertake these analyses were educators, and not parents.

These stakeholders also suggested we investigate the timing of suspensions and exclusions during the calendar month in which the NAPLAN tests are conducted (May), and then more specifically, during the week of May in which the tests were held. However, the data provided did not provide compelling evidence for disproportionate rates of take home, suspension, or exclusion during NAPLAN weeks, although we note that having access to data on the reasons



for exclusionary disciplines, and suspension/exclusion patterns during other weeks of Term 2, would have allowed for a more detailed analysis of these trends. Given the availability of data and time constraints, it was beyond the scope of the present Inquiry to take this investigation further. However, the findings presented in this section indicate that more targeted research is required to understand not only the use of exclusionary discipline in relation to NAPLAN timing, but also the reasons for withdrawing a child from NAPLAN, given that inclusion in standardised testing, such as NAPLAN, is considered to be a means of ensuring the inclusion of students with learning difficulties or disability in the curriculum (McLaughlin & Rhim, 2007; Graham, 2016b). Although No Child Left Behind (NCLB) initially drove segregation of students with disability, key adjustments including the introduction of Adequate Yearly Progress (AYP) targets for priority equity groups, has helped drive the inclusion of students with disability in the United States in mainstream classrooms, as well as improve their academic achievement (Danforth, 2016). Similar reforms should be considered in South Australia, if not nationally.

## 10 DATA AND RECORD KEEPING

### Terms of Reference:

- Keeping accurate and transparent records of the number of children suspended, excluded or expelled from school; the nature of and reason for their suspension, exclusion or expulsion; and their modified or other enrolment or different options (including hours of contact, curriculum offerings, etc.)
- Whether the data collected by the department regarding suspensions, exclusions and expulsions is sufficient to inform departmental policy-making programs

### 10.1 KEEPING ACCURATE AND TRANSPARENT RECORDS

#### 10.1.1 Data related to appeals processes

As noted in Section 5.6.1, we requested data relating to the lodgement and outcomes of appeals processes, however, were advised that appeals data is not collected centrally, and rather is captured at the regional level, and therefore the appeals data was not able to be collected and provided to the Inquiry for analysis. This limited our ability to address the relevant Term of Reference relating to appeals, and indicates that current mechanisms for the reporting and monitoring appeals data are not conducive to regular and robust analysis to inform policy decision-making to ensure appeals processes are fair and effective, or to identify opportunities for systems improvement.

#### 10.1.2 Data provided by the Department for Education

The process of requesting and analysing the available data revealed notable deficiencies in the records either collected or kept by the SA Department for Education. In general, data for the satellite programs were difficult to obtain or were not available. Much of the data linking available for other students has not been done for students enrolled in alternative programs. For example, NCCD data are not available for these students. This represents a serious deficiency in how data are being recorded for satellite programs, as it is not possible to determine potential risk factors or reasons for leaving mainstream schooling options. Records of students who obtained exemptions could not be disaggregated in terms of when the exemption occurred, how many were issued in a calendar year for a student, how long each exemption was for, and the reason for its occurrence. The Home Education Unit was unable to make available records of children in care enrolled in these settings, noting that ‘anecdotally’ these represent a very small number of home-schooled children.

Notably, there are significant deficiencies in the data records for students enrolled in FLO. FLO student attendance records could not be obtained, even though FLO coordinators interviewed by the Inquiry team maintained that attendance data is collected each term. As a result, it is unknown how much of the school day students were there for, and indeed whether they attended at all. The Inquiry team was informed that the absenteeism data were not “fit for purpose”, because “many students are not full time, do not attend the same number of days or part days, or may be off campus with the attendance data not necessarily reported back to the school.” We also heard that student absences were being recoded as online learning to disguise the lack of attendance of students in FLO programs. As a result, it was difficult to determine the

trajectories of students who enter FLO programs, how long they remain in these settings, and whether they consistently attend. If these data are not fit for purpose and could not be made available to the Inquiry team, then the SA Department of Education would not themselves be able to track students' trajectories, attendance and outcomes, and would not therefore conduct an accurate assessment of FLOs effectiveness. This lack of data may account for the lack of oversight and attention given to reported mismanagement of FLO operations.

Several other analyses could not be produced due to constraints on the data available. As an example, we could not investigate the associations between student age (in months) and behavioural outcomes, due to unavailability of the data. We note also that the Inquiry placed enormous burden on the SA Department for Education Data Unit Team who were dealing with the impact of a global pandemic and striving to produce attendance data to enable the SA Department for Education to monitor and respond to COVID-19. The timing of this Inquiry and the need to achieve deadlines meant that there were some analyses that we would have liked to do—for example, compare like schools, identify those with lower exclusionary discipline rates and investigate factors associated—however, it was not possible in the timeframe, given the impact of COVID-19 and demands on the SA Department for Education Data Unit.

It is also important to understand the process by which data were obtained for the purpose of the Inquiry, the form of the data, and the implications for analysis. Given the independence of the Inquiry and constraints on the type of data that could be provided, most of the analyses presented in the present report are derived from aggregate level information, which has generally been provided in the form of frequency (count) data, and split according to the specific variable under examination (e.g., disability status). This has enabled the study of particular factors of interest in isolation, and their association with disciplinary outcomes, yet it has not allowed the exploration of important factors in combination, and how they interact over time. More sophisticated analyses were simply not possible using the data in its available form, such as an analysis of factors that predict early school-leaving over time or analyses of NAPLAN results which take into account contextual factors and the precise timing of when disciplinary outcomes were enacted. Moreover, the necessity of providing data in its aggregate form has resulted in a loss of information, for example, in the many instances for which fewer than six incidents were recorded in one of the requested categories, requiring the data to be confidentialised.

Despite the data limitations, in the course of this Inquiry we have been able to identify (i) significant increases in enrolments and funding directed to FLO since 2012, and (ii) patterns in exclusionary discipline that suggest students referred to FLO are not attending. Moreover, we heard allegations that funding for FLO students is being siphoned away from FLO to fund leadership positions in mainstream.

### 10.1.3 Data provided by the Customer Feedback Unit (CFU)

The Inquiry team requested complaints data from the Customer Feedback Unit (CFU). Records were provided for the years 2018-2019; prior to 2018, we were informed that multiple systems and processes were in place, mostly involving manual data records, and there was no quality assurance of the data recorded.

In the data provided, submissions to the CFU are categorised as General Enquiries, Level 1 complaints, or Level 2 complaints. It is understood that only General Enquiries and Level 2 complaints are addressed by the CFU, while Level 1 complaints were referred back to schools

immediately. All three levels of complaint were further identified according to the specific 'Customer Contact Topic', being a list of 51 categories (such as 'Accident', 'Bullying', 'Child protection'). It was noted that more than one contact topic could be selected for the same complaint, yet the aggregate-level data provided did not allow a detailed breakdown of the types of co-occurring issues.

A breakdown of 'Resolution Methods' was also provided for the Level 2 complaints, comprising summary data of the final outcomes of each complaint in each calendar year. For example, categories included 'Assisted with Resolution', 'Out of scope', 'No action required', and various other options. These categories did not clearly indicate exactly how a complaint had been resolved. Additionally, a member of staff noted that 'Assisted with Resolution' did not necessarily mean that any resolution had been achieved for the complainant. It was again noted that more than one resolution method could be selected for a particular complaint.

Since 2019, staff in the CFU have been required to conduct a 'root cause analysis' of Level 2 enquiries at the closure of the complaint, where they identify the reason perceived to be underlying the complaint, based on a list of 17 possible root cause options. Options include, as an example, 'Professional Behaviour – Staff Competency', 'Service Delivery – Process', and 'No case to answer', the latter of which was the most commonly selected option in 2019 (42.0% of Level 2 complaints). These data may therefore provide more of an indication of staff perceptions of the complaint, rather than the content of the complaint itself.

In sum, while processes of CFU data collection and record keeping have improved considerably since 2018, there is still a lack of precision regarding objective complaint outcomes which makes it difficult to determine how effective this complaints process is.

## 10.2 EDUCATION STAFF FEEDBACK

Feedback in relation to the recording of data in relation to suspensions, exclusions and expulsions was received primarily from education staff. Most expressed that data is recorded appropriately, however several respondents raised concerns about how this data is viewed by the SA Department for Education.

One assistant principal highlighted,

"Many of our students are OnePlan students with limited emotional capacity to understand their own and others' behaviour. We are working to improve our capacity to differentiate. How does the department view the suspension data? Are we considered in a bad light if our suspension data is high? It is hard work dealing with these students."  
(Assistant principal, survey response)

One respondent also spoke of the need to not only look at the data, but also look at the circumstances of the students and the school community, and the importance of listening to individual student stories to contextualise school data:

"...absence data for the cohort can look very low and you think "well that's terrible" but you get five chronic non-attenders and it brings [the data] down, so my argument is don't look at the cohort data, come in and let's unpack a few kids individually...let's tell their story". (Albert, School Principal).

Concerns about how data is interpreted by the SA Department for Education were also raised in relation to the recording and reporting of incident data,

“IRMS is the incident reporting system so every time we have a critical incident whether it be violence or a kid attempting their life or whatever, you’ve gotta log it up so the department sees it... that’s how they keep on top of it. If there are a high number of reports, what they do is they say, “you haven’t got control of the school, what’s going on there?” The data does not look good for the school. So, principals may be selective in terms of what they need to put up.” (Albert, School Principal)

Other respondents expressed concerns that data is not accurately reported due to concerns about how data will reflect on the school’s reputation, suggesting schools may not accurately record attendance or data, or that schools may use other informal strategies (e.g., asking parents and carers to keep the child at home for a few days) that are not recorded to ostensibly prevent the child from accruing “a record” but in reality to avoid poor performance data.

As noted earlier in this chapter, respondent feedback indicated significant variability and inconsistency in the implementation of suspensions and exclusions across schools. Some respondents commented on the possible underlying motivations which may drive this lack of consistency. For instance, one teacher expressed concern that principals avoid the use of exclusionary discipline in a desire for ‘...*their student behaviour data to look good*’. Consequently, this participant believed that schools were foregoing essential early intervention, resulting in a negative impact on both their learning and wellbeing, and the wellbeing of others. Another teacher participant observed that principals’ reluctance to use these practices was putting teachers and students at risk. Providing schools with alternatives to exclusionary discipline and encouraging them both to use and record the use of those alternatives would help to mitigate this problem.

Several respondents raised concerns that schools do not accurately report data in relation to various decision-making processes. For example, a behaviour coach raised concerns about whether schools accurately record internal suspensions:

“I have seen examples where sites have internally suspended students and not recorded this adequately on EDSAS.” (Behaviour support coach, survey response)

As noted in Section 5.8, some respondents noted that informal processes including internal suspensions, requests for parents to keep students at home, and other practices such as ‘time out’, take homes or ‘early departures’ are not recorded in school data. Similar concerns were raised that there is need for improvement in the recording and monitoring of take homes and part-time attendance plans, as noted in Sections 5.8 and 5.10. Throughout the comments by both principals and teachers, it was acknowledged repeatedly that the use of these practices is not monitored (to do so would increase workload expectations), and typically not reported by schools. As an example, one teacher noted,

“I don’t know of anyone, above the school level, who monitors these types of arrangements. Besides, most of this stuff is done, unofficially, by the student’s teachers. Or, if the school is involved, it’s on “wink and a nod” basis.” (Teacher, survey response)

One respondent indicated data about the use of disciplinary responses for particular groups are adequately kept, but questioned whether the SA Department for Education collects adequate data regarding disciplinary responses in response to trauma-based behaviours:

“I believe students who have diagnoses are possibly overrepresented. I feel strongly that when you go to suspend a student that is an Aboriginal or Torres Strait Islander or has a diagnosed disability the Department flags this. However, students who have experienced

trauma are not identified and are treated differently. So yes, those at risk or vulnerable are overrepresented.” (Mary, student well-being leader, survey response)

One respondent raised concerns around the way that absence data is recorded, commenting:

“...one concern I have is the way we record absences. It can be an F for ‘family, I for ‘illness’, G for an offsite programme. It doesn’t recognise Aboriginal culture. So Sorry Business, when there’s a funeral ... we might not see them for four weeks. If it’s more than four weeks I’m supposed to give an exemption to the student but only if they tell me, and they won’t always tell me ... it has to be recorded as ‘family’, but it’s supposed to be exempt. I’m supposed to give them an exemption. But I can’t do that if they don’t ask for it”. (Albert, School Principal).

Others questioned whether there are sufficient monitoring and review strategies in place to identify and respond to issues around the use of suspensions and exclusions. For example, one respondent suggested the system needed to:

“Look at the amount of suspension before exclusions. That there is expected behaviour outcomes in place after the first, second, third, fourth and fifth [suspension]. Schools should monitor and sit with the student to address and make a learning goal around the behaviours so that there is less of the above happening.” (Annie, behaviour support coach, survey response)

Another commented that data needs to be considered more frequently to identify and drive systems improvements, including using the data to identify and celebrate good practice:

“The department have more consistent external oversight about what is going on in pending exclusion meetings. Principals need help. Parents need support. State-wide trends and good practice need to be shared more regularly”. (Andy, behaviour support coach, survey response)

The need for consistently collected state-level data was noted, with analysis considered essential for resourcing and policy development.

This view was also shared in relation to appeals data. As noted above, we heard from staff in leadership positions within the SA Department for Education that appeals data is collected only at the regional level, not centrally. While it was noted that this data could be collected centrally, education staff were not aware of any system or process for the centralised collection and analysis of appeals data to inform decision-making and policy reform.

The Inquiry did not receive any other significant feedback in relation to record keeping and data from other stakeholders. However the feedback received from education staff indicates that improvements are needed to ensure consistent collection of data at the school, regional and state level, including data in relation to informal strategies, and to ensure data is effectively monitored and reviewed to drive systems improvements, effective resource allocation and policy development.

## 11 FINDINGS & RECOMMENDATIONS

In this chapter we summarise data analysed in Chapters 5 to 10 and provide observations regarding the SA Department for Education's legislation, policy, and practices in relation to each of the Terms of Reference. The analysis and observations that follow will inform recommendations for reform of current legislation, policy, and practice.

The following analysis is structured to respond to each of the Terms of Reference. Within the Terms of Reference, however, are two overarching principles that have relevance for specific investigative domains. These overarching principles are articulated in the Terms of Reference as requiring attention to:

- the Department's compliance with international conventions, legislative requirements, and governmental and departmental policies and procedures in its use of suspensions, exclusions and expulsions,
- alignment of policy and practice with evidence-based best practice.

As such, each of the Terms of Reference is also considered within the broader context of the SA Department for Education's compliance with international conventions, national and state legislation, policies, procedures, and best practice. After describing the relevant findings, we present recommendations at the end of each section.

### 11.1 NOTIFICATION OF EXCLUSIONARY DISCIPLINE DECISIONS

#### Term of Reference:

- *Ensuring that relevant parties are notified a decision has been taken to [take home]<sup>8</sup>, suspend, exclude, or expel a student.*

**Finding 1.1:** While evidence received through this Inquiry indicates general compliance with notification requirements under the SEE Procedures, there remain instances where notification requirements are not met. In some instances, parents and carers are not notified in a timely manner, or are not provided with detailed information explaining the circumstances leading to the exclusionary discipline decision. We note that the SEE Procedures do not currently scaffold best practice by stipulating a timeframe for providing notice or specifying the type of information that should be provided in the notice.

As observed in Chapter 5, examples of non-compliance include relevant parties not always being appropriately informed of decisions, students being sent home, suspended or excluded without parents being informed in a timely manner, and parents being notified without full details of the incident or with lack of clarity in the reasons for the disciplinary action. Failure to provide notice to relevant parties including the student and their parent or carer is a breach of the SEE Procedures and is inconsistent with principles of the *Education and Children's Services Act 2019* (SA).

Currently, the SEE Procedures are not explicit about (i) the timeframe within which notification of the decision needs to be communicated to the student and their parent or carer, or (ii) the

<sup>8</sup> The original ToR did not include take homes, however, as these are a form of exclusionary discipline, we have included them where appropriate to enable analysis alongside suspensions and exclusions.



type of information that must be provided to a student or their parent or carer following a decision to use a form of exclusionary discipline. The SEE Procedures only note that the principal must make sure the decision is communicated by a person who can explain the decision to the student and their parents.

However, failure to provide all relevant information in a timely manner impedes students' and their parents' or carers' ability to meaningfully participate in decision-making, and is therefore a practice that is not aligned with the objects and principles of the *Education and Children's Services Act 2019* (SA), international human rights obligations described in Section 3.2.4 or best practice described in Section 4.6.2.

RECOMMENDATIONS FOR THE SA DEPARTMENT FOR EDUCATION	FINDINGS
<p><b>RECOMMENDATION 1</b></p> <p>That the SA Department for Education amend the SEE Procedures to make explicit:</p> <p>(a) That all reasonable efforts be made to ensure a student and their parent or carer are <b>notified</b> of an exclusionary discipline decision the same day a decision is made.</p> <p>(b) That in addition to providing notice of the decision to issue an exclusionary discipline response, the <b>school must also provide</b> to the student and their parent or carer:</p> <ul style="list-style-type: none"> <li>(i) an explanation of any information that the school has about the events leading up to the decision,</li> <li>(ii) the ground and reasons for the response,</li> <li>(iii) what has been done to support the student,</li> <li>(iv) why no less restrictive disciplinary response is appropriate,</li> <li>(v) their rights regarding complaints and appeal, and</li> <li>(vi) the processes to follow in order to make a complaint or appeal a decision.</li> </ul>	<p>1.1</p>

## 11.2 CONFERENCES AND RE-ENTRY MEETINGS

### Term of Reference:

- *Ensuring a conference is conducted with the affected student and other required participants.*

As described in Section 3.6.6, the SEE Procedures require schools to conduct conferences with a student and their parent or carer. For take homes, this includes a 're-entry meeting' (now 'reconnection meeting') prior to the student's return to school to support the student's re-entry to school and to consider behaviour support planning with SMARTAR goals. For suspensions, this includes a 'suspension conference' (now 'reconnection meeting') prior to the student's return to school to support the student's re-entry to school and to consider behaviour support planning with SMARTAR goals. For exclusions and expulsions, this includes

- (i) a 'pre-exclusion conference' or 'pre-expulsion conference' (now 'directions conference') prior to the decision being made, to determine whether the student will be excluded or expelled, and to discuss other matters such as behaviour support planning and alternative education during an exclusion or expulsion.

- (ii) a 're-entry meeting' (now 'reconnection meeting') at the end of the exclusionary period to plan for the student's re-entry to school.

While this Term of Reference requires consideration of whether conferencing procedures are followed, we also consider whether these processes are conducted effectively and in alignment with principles of best practice and international human rights obligations.

We also consider here the extent to which existing policy and practice within South Australian government schools promote and achieve the meaningful participation of students in decision-making about exclusionary discipline, including:

- through the provision of reasonable adjustments and availability of representatives or support persons,
- ensuring access to information about the decision-making process to ensure students and their parents or carers understand the process and their rights,
- ensuring decision-making is informed by specialist expertise including from Student Support Services, Aboriginal Education services, and other professionals through collaborative professional partnerships (or teams around the child) operating in an inclusive-schools context.

**Finding 2.1:** While the SEE Procedures require conferences to be conducted with students, schools continue to use practices that do not support the student's or their parent or carer's meaningful inclusion in decision-making either before a decision is made or afterwards during conferencing procedures. The *Education and Children's Services Act 2019 (SA)*, *Education and Children's Services Regulation 2020 (SA)*, and SA Department for Education policy and procedures do not provide sufficiently explicit guidance regarding obligations to support students' meaningful participation in decision-making, or an effective framework for supporting such participation. For example, we heard that:

- decisions to send home or suspend a student are at times made without first consulting with the student and allowing them to put forward their side of the story.
- decisions to exclude a student are at times made unilaterally before the pre-exclusion conferencing process occurs.
- students, as well as parents and carers, experience significant power imbalance in pre-exclusion conferencing processes.
- students are not routinely involved in decision-making about educative, behavioural

Stakeholders raised concerns that when conferencing processes are conducted, they are not always conducted in a meaningful way (see also Section 5.4). For example, stakeholders suggested that schools sometimes conduct these processes in a manner that does not effectively support meaningful participation because:

- decisions to send home or suspend a student are made without first consulting with the student and allowing them to put forward their side of the story.
- decisions to exclude a student are unilaterally made before the pre-exclusion conferencing process occurs.
- students, as well as parents and carers, experience significant power imbalance in pre-exclusion conferencing processes.

- students are not routinely involved in decision-making about educative, behavioural and social and emotional goals following a suspension, exclusion or expulsion.

Such practice is not consistent with obligations under the *Disability Standards for Education 2005* (Cth) described in Section 3.3.2, does not align with international human rights obligations described in Section 3.2.4, and does not align with best practice described at Section 4.6.2. Students must be supported to meaningfully participate in all stages of decision-making about exclusionary practices, both before a decision is made and afterwards, including decision-making about supports and goals following a disciplinary decision and planning for the student's return to school. This must include consideration of reasonable adjustments and availability of representatives or support persons to facilitate their participation in the decision-making process.

Mere notification that a decision has been made is insufficient to meet the requirement for meaningful student participation in decision-making in accordance with international human rights conventions, best practice, and principles of the *Education and Children's Services Act 2019* (SA). This is especially true where students are accused of a misdemeanour for which the use of exclusionary discipline is being considered. During the Inquiry, we specifically asked students whether they had been interviewed about the incident or consulted prior to the decision to suspend or exclude. The overwhelming majority of students said they had not been consulted or interviewed and spoke of a lack of procedural fairness in decision-making. Many stated that they felt they were blamed without being afforded the opportunity to "put forward their side of the story". Their perspectives were validated by other respondents, including behaviour support coaches, teachers, some school leaders, Aboriginal and disability advocates, as well as parents and carers. A majority of parent and carer respondents (64.0%) also indicated that their child or young person had not been interviewed about an incident prior to a decision to suspend or exclude the student. As noted in Section 5.3.4, concerns regarding a lack of procedural fairness in decision-making was also observed in a recent complaint to the SA Ombudsman.

The lack of involvement of students in the decision-making process represents a critical first step that is being missed, which leads to a breach of international human rights conventions described in Section 3.2.4, and best practice described in Section 4.6.2. Furthermore, this is non-compliant with the SA Department for Education's own SEE Procedures (see Table 3.4) and the principles and objects of the *Education and Children's Services Act 2019* (SA). While some educators may be resistant to including students in all decisions, 'respecting children's views is not just a model of good pedagogical practice, but a legally binding obligation ... [that] applies to all educational decision making' (Lundy, 2007, p. 930). In other words, it is a professional responsibility and not a matter of individual preference. The findings of this Inquiry indicate significant improvements must be made to ensure students are routinely supported to meaningfully participate in decision-making about school discipline. The buy-in necessary for students to positively engage with behaviour support and enact behavioural change is unlikely to follow without this.

Despite the presence of overarching principles in the *Education and Children's Services Act 2019* (SA) that require student participation in decision-making, as well as the participation of key stakeholders including a parent or carer, neither the Act or the *Education and Children's Services Regulations 2020* (SA) explicitly recognise the obligation to ensure meaningful participation in decision-making processes relating specifically to the use of take homes, suspensions, exclusions and expulsions. The *Education and Children's Services Regulation*

2020 (SA) specify matters that must be considered before a decision is made to suspend, exclude or expel a student, however this currently does not mandate consideration of the views, rights and interests of the student and their parent or carer. Explicitly requiring this in the *Education and Children's Services Regulation 2020 (SA)* would bring the SA legislative framework into greater alignment with the principles of the *Education and Children's Services Act 2019 (SA)*, international human rights obligations described in Section 3.2.4 and best practice described in Section 4.6.2.

Furthermore, while the current SEE Procedures require that reasonable steps be taken to find out from a student why the behaviour occurred and to collect information from the student about an incident before a decision is made, the SEE Procedures provide limited guidance to schools about *how* to promote meaningful participation, including requirements to make reasonable adjustments to ensure a student with disability is able to effectively participate in decision-making, as described in Sections 3.3.2 and 4.6.2. Clear guidance should also be provided to ensure consultation with all students is accessible and that they:

- are supported to understand the content and purpose of the consultation,
- can comprehend the information and questions, and
- are provided the option of communicating using a method that is preferred by them and which reflects their views and perspectives.

This may require the provision of reasonable adjustments as required under the DSE (see Gillett-Swan et al., 2020). Schools should also ensure that students have access to an appropriate representative, support person and/or interpreter to enable their participation in decision-making. This is imperative for Aboriginal students, students with a disability, and students in care.

**Finding 2.2:** While re-entry meetings are generally conducted, evidence suggests that re-entry processes are enacted in ways that do not effectively support behavioural change or a student's reintegration into an inclusive school community. We did hear of some schools using effective strategies to support a student's return to school, such as restorative justice conferencing, however, the implementation of such practices is not supported at a system-wide level, and no guidance is provided in SA Department for Education policies or procedures around the value of such practices or strategies to support their implementation.

We heard from stakeholders that while re-entry meetings are often conducted, they are not always conducted in a manner that effectively supports a student's reintegration into the school community following a suspension or exclusion. For example, we heard that re-entry meetings sometimes involve teaching staff simply warning the returning student of the behaviour that is expected and the consequences that would follow future incidents (e.g., further suspension or exclusion) without any additional support or interventions to support them to engage in behavioural change. This is inconsistent with the intent of the Behaviour Support Policy and SEE Procedures which demand a more integrated and supportive structure for returning students. This is also not aligned with international human rights obligations described in Section 3.2, or best practice described in Section 4.6.7.

We heard that schools need to play a greater role in helping students overcome the embarrassment of returning after suspension, and that peers also have a role to play in welcoming students back to school. It was suggested that schools could do better at explicitly

teaching students around how they can support and welcome students back after a disciplinary absence and improve school connectedness, including through the use of restorative practices. We heard of some schools employing restorative practices, however, this was rare and fragmented. Students themselves suggested schools should consider more effectively and routinely using restorative practices to better support students to repair relationships, including as an educative response prior to the use of exclusionary discipline or as a strategy for repairing relationships at the end of a disciplinary absence.

The SEE Procedures do not explicitly consider the potential value of restorative practices, and we could not identify and were not made aware during this Inquiry of any SA Department for Education policy or procedures that provide a framework for the use of such practices. While such practices may not be appropriate in all circumstances, international evidence described in Section 4.6.7 suggests that establishing whole-school restorative frameworks (as part of a broader system-wide Multi-Tiered Systems of Support (MTSS) framework), including restorative conferencing processes, is an effective means to build inclusive school cultures, reduce the use of exclusionary discipline, support positive behaviours and promote student wellbeing and achievement.

**Finding 2.3:** There remain instances where relevant education support staff are not involved in exclusionary discipline decisions, limiting their ability to support the student, and impeding the effectiveness of a ‘team around the child’ approach. Current SEE Procedures also do not mandate consultation with specialist supports (e.g. Student Support Services or Aboriginal Education staff) before a disciplinary decision is made, despite the critical importance of engaging such expertise to inform decision-making about disciplinary actions, particularly for students with disability, Aboriginal students and students in care.

While the language of the current SEE Procedures requires principals to include Student Support Services, Aboriginal Education staff and other department and external professionals to plan for student supports and re-entry *after* a disciplinary decision is made, they only encourage (and do not mandate) principals to consult with these supports *before* making a disciplinary decision. That is, the SEE Procedures indicate that principals “should” seek and consider specialist advice before making a disciplinary decision. This is not aligned with the principles of the *Education and Children’s Services Act 2019* (SA) which require collaborative decision-making and is inconsistent with international human rights obligations described in Section 3.2.4, and best practice described in Sections 4.5 and 4.6.10.

The analyses of data presented in Chapters 6-10 show that exclusionary discipline is disproportionately applied to vulnerable student groups: students with disability, Aboriginal students, students in care, and students attending the most socioeconomically disadvantaged schools. Careful disaggregation shows that only around one in 10 students not in any of these risk groups is sent home, suspended or excluded. It is therefore critical that policy and procedure is based not on the majority of students that are unaffected by or subject to the use of exclusionary discipline, but the minority of students that are and disproportionately so. Best practice in this instance calls for all individuals in the team around the child to, wherever practicable, be involved in decision-making in relation to incidents for which exclusionary discipline is being considered to ensure such decision-making is adequately informed by, for example, factors relating to the student’s disability, trauma background or cultural factors. This will also help to ensure exclusionary discipline is only used as a last resort, in accordance with

the SA Department for Education's Behaviour Support Policy. This action is critical for students from priority equity groups (disability, Aboriginal, living in care). Students in these groups are disproportionately overrepresented and therefore disproportionately impacted by take homes, suspensions, and exclusions. To help mitigate their overrepresentation, the practice of including relevant support staff should be mandated.

**Finding 2.4:** Students, parents and carers are unable to access policy and procedure documents relating to the use of take homes, suspensions, exclusions and expulsions, such as the SEE Procedures, as these documents are not publicly available. Information that is publicly available, such as the factsheet on 'suspension and exclusion information for parents and carers' does not include all relevant information regarding exclusionary discipline. This contravenes the Department's obligations under the FOI Act and prevents access to information necessary for students, parents and carers to meaningfully participate in decision-making about student discipline, including knowledge of their rights and the obligations of school staff.

To ensure students and their parents or carers can meaningfully participate in decision-making processes, they must be supported to access information and to understand the policies and procedures guiding principals' decision-making. This is critical to ensure students, parents and carers can effectively navigate the process and understand their rights in relation to school disciplinary practices. However, the SEE Procedures are not currently publicly available and access is restricted to department and school staff. Limited information is available to students, parents and carers through the SA Government website (*Behaviour support in schools*, 2020), and through a new *Suspension and exclusion information for parents and carers* factsheet published following the release of the updated SEE Procedures.

While these resources provide access to simplified versions of information contained in the SEE Procedures, they do not provide access to the same resources and procedures that are used by school and department staff to guide their decision-making. These public-facing documents also do not contain all relevant information, including information regarding the use of take homes. Importantly, the information that is available publicly does not provide parents with the knowledge they need to assess whether procedural requirements have been followed, breach of which is currently one of only three reasons they can appeal an exclusion. Also of note, some publicly available resources on the South Australian government website still contain reference to outdated policy and procedure, such as the 'learning plans' website which fails to refer to new OnePlan and IESP policy and procedures. These documents should also inform students, parents and carers of their rights and the obligations of education providers under relevant international conventions and national legislation, especially those specific to Aboriginal students and students with disability (e.g., ensuring that Aboriginal students 'can understand and be understood in political, legal and administrative proceedings, where necessary through the provision of interpretation or by other appropriate means' as per Article 13.2 of UNDRIP, and through the provision of reasonable adjustments to students with disability as per the DSE).

Notably, the *Freedom of Information Act 1991* (SA) ('FOI Act') establishes standards and obligations that are intended to enable community scrutiny, comment and review of government policies and procedures, and to promote an understanding that documents and information held by government agencies should be accessible to the public unless disclosure would, on balance, be contrary to the public interest. Section 3 of the FOI Act establishes the objects of the Act which include promoting openness in government and facilitating more

effective participation by members of the public in the processes involved in the making and administration of laws and policies. Section 10 of the FOI Act requires agencies to make copies of policy documents available to members of the public. A policy document includes any document containing interpretations, rules, guidelines, statements of policy, practices or precedents (section 4(1)). Consistent with statutory obligations and the objects of the FOI Act, the SEE Procedures, as well as any other policy or procedure relevant to decision-making about student support or discipline, must therefore be made available to the public. This will (i) strengthen accountability and promote compliance with obligations under the *Education and Children's Services Act 2019* (SA), *Education and Children's Services Regulation 2020* (SA) and relevant policies and procedures (including through complaints and appeals processes which are considered in more detail below), (ii) promote the ability of students and their parents or carers to understand and meaningfully participate in decision-making about disciplinary practices, and thereby (iii) promote the rights, interests and outcomes of students.

Finally, the SA Ombudsman has a role to promote administrative improvement in the public sector and works with government agencies to support their understanding and compliance with obligations under the FOI Act. For example, in 2014, the SA Ombudsman, through his role as an external review authority under the FOI Act, conducted an audit of 12 state government departments' compliance with obligations under the FOI Act (*An audit of state government departments' implementation of the Freedom of Information Act 1991* (SA), 2014). The Ombudsman subsequently noted that some agencies do not meet their obligations under the FOI Act, which may be a result of "lack of understanding, resourcing, or a culture of fear or prejudice within agencies" (Ombudsman SA, 2014, p. 11). In light of the Ombudsman's role and previous work, the SA Department for Education is encouraged to work with the SA Ombudsman to ensure compliance with the FOI Act.

**Finding 2.5:** While conferences and re-entry procedures are generally conducted as required under the SA Department for Education's SEE Procedures, there remain instances where schools fail to ensure this occurs. There are insufficient accountability mechanisms to ensure that these processes do occur, and to monitor schools' compliance with these obligations.

While school leaders indicated that conferencing and re-entry procedures are generally conducted as required under the SEE Procedures, it was noted that these sometimes do not occur due to time and staffing constraints. Parents and carers also indicated that these procedures are not routinely followed, with 14.4% of parent/carer respondents indicating that they (and their child) had not been invited to attend a suspension conference following a suspension, and 35.7% indicating they had not been invited to attend a re-entry meeting or conference for an exclusion. This is a breach of the SA Department for Education's SEE Procedures (refer to Section 3.6.6), does not align with international human rights obligations described in Section 3.2.4, and does not align with best practice described at Section 4.6.2. This evidence indicates that the SA Department for Education has not established effective accountability mechanisms for monitoring compliance with these requirements.

RECOMMENDATIONS FOR THE SOUTH AUSTRALIAN GOVERNMENT	FINDINGS
<p><b>RECOMMENDATION 2</b></p> <p>That the South Australian government amend the <i>Education and Children’s Services Act 2019</i> (SA) to:</p> <p>(a) Explicitly require that a principal of a school must <b>consult students using accessible language</b>—in a non-prejudicial and non-interrogatory manner—to enable students to put forward their account in relation to an incident for which a disciplinary response may be considered.</p>	2.1
RECOMMENDATIONS FOR THE SA DEPARTMENT FOR EDUCATION	FINDINGS
<p><b>RECOMMENDATION 3</b></p> <p>That the SA Department for Education:</p> <p>(a) Implement explicit guidance including in the SEE Procedures regarding schools’ obligations to ensure students, and their parents and carers, are supported to <b>meaningfully participate in decision-making</b>, including by:</p> <p>(i) explicitly stating schools’ obligations under international human rights instruments and the <i>Disability Standards for Education 2005</i> (Cth) to support meaningful participation in decision-making <i>before</i> a decision is made.</p> <p>(ii) explicitly requiring that schools ensure reasonable adjustments are made for students with disability in accordance with the <i>Disability Standards for Education 2005</i> (Cth) and,</p> <p>(iii) explicitly requiring that a suitable representative, support person (e.g., Student Support Services and Aboriginal Education services) and/or interpreter is present during conferencing processes to support the student to meaningfully participate in decision-making and is not disadvantaged due to cultural or communication difficulties.</p> <p>(b) Establish a system-wide <b>Multi-Tiered Systems of Support (MTSS) framework</b> designed to improve students’ academic, social-emotional and behavioural outcomes and which incorporates:</p> <p>(i) <i>Student voice and participation</i> based on the Lundy model of participation to improve student involvement in decision-making, wellbeing, and school connectedness.</p> <p>(ii) <i>Restorative practices</i>—both as an alternative to exclusionary discipline and as a tool to support the re-integration of students following a disciplinary absence—to ensure evidence-based best practice is in place to prevent and address behavioural incidents.</p> <p>(c) <b>Establish a new position</b> within the SA Department for Education, whereby the role-holder will oversee the development, implementation, monitoring and review of a system-wide Multi-Tiered Systems of Support (MTSS) framework to guide the work of all staff in government schools.</p>	2.1, 2.2
<p><b>RECOMMENDATION 4</b></p> <p>That the SA Department for Education:</p> <p>Amend the SEE Procedures to make explicit that a principal must, wherever practicable, <b>seek advice from specialist supports</b> such as Student Support Services, Aboriginal Education services, or other department or external</p>	2.3



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specialist supports before making a disciplinary decision for a student with a disability, a student in care or an Aboriginal student consistent with a team around the child approach.

\* Recommendation 4 can be coupled with Recommendation 3a(iii) to ensure that an appropriate support staff member and/or interpreter is present during exclusionary discipline conferencing processes.

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#### RECOMMENDATION 5

2.4

That the SA Department for Education:

- (a) **Make available to the public** through its public facing website, a copy of all policy, procedures and practice guidance relating to student discipline as per requirements under the FOI Act.
  - (b) **Revise the fact sheet** on 'Suspension and Exclusion Information for Parents and Carers' to:
    - (i) include information on take homes,
    - (ii) change the title of the document to refer to exclusionary discipline more broadly,
    - (iii) include links to the policy and procedures to help parents and carers to locate this information, and
    - (iv) require that school leaders provide this fact sheet to parents and carers when a decision to use any form of exclusionary discipline is made.
  - (c) Engage the Ombudsman SA to support the SA Department for Education's compliance with the objects of the FOI Act and discharging of its FOI responsibilities through **biennial audits** of the public availability of the Department for Education's policies and procedures.
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#### RECOMMENDATION 6

2.5

That the SA Department for Education:

- (a) Implement **more effective accountability mechanisms**, such as requiring student and parent sign-off that a directions conference or reconnection meeting has taken place, to:
    - (i) ensure schools comply with international human rights obligations, best practice, and Commonwealth and SA legislation, policy and procedure regarding student disciplinary practices, and
    - (ii) monitor compliance with the requirement to hold a conference or meeting through the application of a documentation and central data collection process that is capable of both identifying and rectifying breaches of conferencing/re-entry meeting requirements.
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## 11.3 PROVISION OF OTHER EDUCATIONAL AND DEVELOPMENTAL OPPORTUNITIES

### Term of Reference:

- *Ensuring the suspended or excluded student is provided with other educational and/or developmental opportunities to support behavioural and learning goals.*

**Finding 3.1:** The *Education and Children's Services Act 2019 (SA)*, *Education and Children's Services Regulations 2020 (SA)*, and the SEE Procedures do not provide a clear expectation that schools will continue to provide access to educational and/or developmental opportunities during a disciplinary absence, and consequently many students are not supported to access educational and developmental opportunities during a disciplinary absence, breaching their legislative and human right to education and potentially contributing to learning and achievement gaps, which the scholarly literature suggests will 'snowball' if left unaddressed over time.

In Section 3.6.7 and Table 3.6, we describe legislative, policy and procedural requirements for providing continued educational and developmental opportunities during exclusionary periods. The new SEE Procedures contain positive principles that promote inclusive practices and school culture, and identify exclusionary practices as being a response of last resort. However, the SEE Procedures explicitly state that schools are *not* required to provide school work for a student during a suspension. This contravenes human rights and best practice principles, and is not aligned with the principles of the *Education and Children's Services Act 2019 (SA)* which provides that every child has a right to education and places strong obligations on student enrolment and attendance at school. Also, as noted at Section 3.5.2, recent amendments to the *Education and Children's Services Act 2019 (SA)* impose strict obligations on parents and carers to ensure a child attends school or an approved learning program, and tough penalties for failing to do so, however evidently does not hold the SA Department for Education to the same standard to ensure the student's continued access to learning. This also falls short of the standards maintained in other jurisdictions, such as Queensland, where section 284 of the *Education (General Provisions) Act 2006* explicitly requires school principals to take reasonable steps to arrange for the student's access to education during a suspension. However, given that this legislative requirement is not routinely enacted in QLD, it must be strongly supported by explicit mandates in the SEE Procedures and compliance monitored through intelligent accountability mechanisms, central data collection, and external audit.

As discussed in Chapters 3 and 4, international human rights conventions and best practice compel education departments to implement policies and practices that support an inclusive education system for all students. There is, however, a common perception that students who are suspended or excluded forfeit their right to education and this perception can at times inform the development and enactment of policy, procedures, and practice, as observed in Chapter 5. This stance regarding the forfeiture of rights, which is still reflected in the existing SEE Procedures, reflects a punitive, as opposed to an educative, approach to school discipline, the negative outcomes of which are described at length in this report. Importantly, students do *not* lose their right to education when they are suspended, excluded, or expelled (see Section 4.4). In fact, education departments must uphold the rights of all individuals all the time (Lundy, 2018), including through the provision of educational opportunities during a disciplinary absence.

Feedback from students, parents and carers clearly established that many students are not provided with educational opportunities during a suspension or exclusion. Most students spoke of a lack of support during suspension or exclusion, including lack of educational opportunities. Most parents and carers reiterated student comments, with 85.6% indicating their child was not provided educational opportunities during a suspension, and 69.0% indicating the same for exclusions. Such practices also raise concerns about the extent to which schools promote cultures of school connectedness (also considered at finding 3.2).

We heard examples of good practice from some education staff where schools had taken steps to ensure a suspended or excluded student had access to educational and developmental opportunities. Some respondents spoke of their school providing school work for all students who were suspended or excluded, holding regular meetings with excluded students to ensure supports are adequate, and providing excluded students with opportunities to meet with a teacher in an external site (e.g., a library) or to attend the school from which they were excluded to attend particular classes or programs. However, this was overwhelmed by evidence that indicated most students do not receive these supports during a disciplinary absence. We also heard that excluded students were not supported to attend another learning program until late in their exclusion period or not at all, and that referrals to alternative learning programs including FLOs are not effective at ensuring students are provided educational and developmental opportunities during a suspension or exclusion due to concerns about the quality of supports and programs offered in these alternative settings (findings regarding alternative learning programs are considered at Section 11.8 below).

Such practices breach international human rights obligations described in Chapter 3 and are not consistent with best practice described in Chapter 4. These issues, together with those discussed in Sections 11.1 and 11.2, raise significant concerns about whether there are sufficient frameworks in place to ensure schools are supported to comply with obligations around the use of exclusionary discipline, and to ensure accountability where obligations are not routinely upheld. Given the significance of the issues identified, and their impacts on students' rights, interests and outcomes, the immediate implementation of frameworks for monitoring and improving compliance is critical. We note that the school improvement planning processes described in Section 2.3.8 provide an existing but insufficient framework, which could be expanded to support compliance with these obligations. We also consider at 11.4 below the role of an independent statutory body such as an Education Ombudsman (or Education Commission) to better support the SA Department for Education to implement systemic inclusive school reform aimed at improving student engagement, learning and behaviour through the development of a system-wide Multi-Tiered Systems of Support (MTSS) framework, with the goal of significantly reducing the use of exclusionary discipline as has been achieved by an increasing number of public schools systems in the United States. These reforms are critical to the SA Department for Education's commitment to achieving a world-class education system.

**Finding 3.2:** While the SEE Procedures and Behaviour Support Policy provide a basic framework for supporting student connectedness, they do not provide sufficiently explicit guidance that emphasizes the importance of maintaining connections between the student and their school community, or requirements for schools to promote and maintain teacher-student relationships and school connectedness particularly during a disciplinary absence.

The SEE Procedures (2020) state that “the process of restoring the relationship between a student and the school community starts from the time a behaviour incident occurs” and “continues through the process of suspension and exclusion” (p. 2). However, while the existing SEE Procedures include some obligations to maintain contact with suspended or excluded students, these are not framed around the maintenance of student connectedness.

The critical importance of supporting and maintaining students’ connectedness to school is explored in Section 4.6.6, yet we repeatedly heard that schools do not routinely implement practices to preserve student connection during a disciplinary absence. We heard some examples of good practice where school staff and student peers sought to maintain connections with suspended or excluded students, and support their sense of belonging, including by the student’s class and teachers regularly sending supportive letters to the student, supporting the student to engage in particular education programs or classes at school rather than severing the school connection entirely during an exclusion, and utilising existing individualised funding to maintain frequent contact with the student during the exclusionary period.

Such practices greatly support the maintenance of student connectedness and can help mitigate some of the negative impacts of exclusionary discipline, as described in Section 4.1. However, we observed that the practices described above are not regularly or consistently employed by schools, which raises concerns as to whether schools effectively promote positive, inclusive, and connected school culture. In the absence of a clear, structured framework that supports student connectedness, such as a comprehensive and multidimensional Multi-Tiered System of Support (MTSS) framework, practices are likely to remain fragmented across South Australian government schools, leading to non-alignment with principles of the *Education and Children’s Services Act 2019* (SA), international human rights obligations described in Chapter 3 and best practice described in Chapter 4.

RECOMMENDATIONS FOR THE SOUTH AUSTRALIAN GOVERNMENT	FINDINGS
<p><b>RECOMMENDATION 7</b></p> <p>That the South Australian government amend the <i>Education and Children’s Services Act 2019</i> (SA) to explicitly:</p> <ul style="list-style-type: none"> <li>(a) Recognise that all students’ right to <b>education continues</b> during an exclusionary period.</li> <li>(b) <b>Require schools to provide an educational program</b> for the duration of the exclusionary period to support students’ learning and behavioural goals during a disciplinary absence.</li> </ul>	3.1
RECOMMENDATIONS FOR THE SA DEPARTMENT FOR EDUCATION	FINDINGS
<p><b>RECOMMENDATION 8</b></p> <p>That the SA Department for Education:</p> <ul style="list-style-type: none"> <li>(a) adopt evidence-based and systematic approaches <b>to enhance positive teacher-student relationships</b> and <b>school connectedness</b>, as one key element in a system-wide Multi-Tiered Systems of Support (MTSS) framework designed to</li> </ul>	3.2

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improve students' academic, social-emotional and behavioural outcomes (as per Recommendation 3b).

- (b) Provide a **clear statement of intent** in the SEE Procedures emphasising the importance of maintaining student connectedness and make explicit the requirement that schools must make all reasonable efforts to maintain connections between the student and their school community, including teaching staff and peers, to support student connectedness during a disciplinary absence.
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## 11.4 APPEALS & COMPLAINTS PROCESSES


### Terms of Reference:

- *Providing a fair and effective appeals process*
- *The adequacy of current complaint management arrangements in respect of students who are formally or informally suspended, excluded or expelled including:*
  - *Whether complaints are being managed appropriately within schools and within the department*
  - *Whether the current arrangements with the South Australian Ombudsman are satisfactory*
  - *Whether the jurisdictions and powers of the Ombudsman should be expanded*
  - *Whether the Ombudsman should be able to make policy recommendations*
  - *Whether there should be a specific education ombudsman, and if so, what their role could be.*

**Finding 4.1:** The SA Department for Education's current policy and procedure for appeals is not aligned with international human rights obligations or best practice, in that it:

- does not permit appeals against take homes or suspensions.
- only permits appeals (in relation to exclusions and expulsions) on the grounds of error of fact, error of process, or inappropriate length or conditions. Appeals are not permitted when, for example, the grounds are considered unfair, or the decision itself was not an appropriate disciplinary response in the circumstances.
- does not provide students, parents and carers with access to an appeals process that is *independent, effective, accessible, transparent, safe and enforceable* as required to comply with international conventions, including the Convention on the Rights of Persons with Disability (CRPD).

In Section 3.12, we describe education departments' obligations to ensure students and their parents and carers have access to processes to challenge or appeal disciplinary decisions that they consider are unfair or wrong. *The Education and Children's Services Act 2019* (SA) stipulates that every child has a right to education. To preserve this right to education, students, parents and carers must be provided opportunities to challenge decisions or service delivery that fails to uphold the right to education. Under international human rights obligations, the SA Department for Education must introduce 'independent, effective, accessible, transparent, safe, and enforceable' complaints mechanisms and legal remedies in cases of violations of the right to education. The SA Department for Education must also ensure that information about the right to education itself, and how to challenge denial or violations are widely disseminated and publicised.



The SEE Procedures explicitly state that there is no formal appeals process for the use of take homes or suspensions. Instead, the only option to challenge a decision that limits or violates a student's right to education via a take home or suspension is through the SA Department for Education's complaints process. As noted in Section 3.9 however, this process requires a student, parent, or carer to complain first to their child's school, and does not carry the same formality or independence that may be provided in an appeals process (discussed further at Section 11.4).

Further, while stakeholders noted that a take home or suspension will usually have run its course by the time an appeal is heard in relation to the decision, an appeal may still be appropriate to review whether proper process was followed (for example, where there have been repeat take homes or suspensions, or whether a suspension conference was held) or whether the take home or suspension decision itself was warranted in the circumstances, which may result in corrections to the student's behavioural record and promote improvements in practice prior to, during and after a take home or suspension. It is notable that the SA Department for Education's appeals processes depart from those in some other jurisdictions, for example, New South Wales which permits appeals against suspension decisions (NSW Government, 2020). By failing to provide students, parents and carers with the right to appeal a take home or suspension decision, the SA Department for Education's policy breaches international human rights obligations described in Section 3.2.5, and does not currently ensure students, parents and carers have opportunity to formally challenge decisions that fail to uphold the student's right to education under the *Education and Children's Services Act 2019* (SA).

We further heard from stakeholders that students, parents and carers should be permitted to appeal "*the actual decision, not just the process,*" and that changes should be made to existing policy to include the option to lodge an appeal if they consider the decision to suspend, exclude or expel in itself was not appropriate.

To ensure there are effective mechanisms for seeking remedies to violations of a student's right to inclusive education, the appeals process should permit students, parents and carers to challenge decisions on broader grounds than currently permitted. The appeals process may serve a critical review process where, for example, a student has been subject to repeat take homes or suspensions to reconsider whether appropriate steps have been taken to implement evidence-based educative interventions, including reasonable adjustments and supports that address the student's educational, behavioural and social and emotional needs. As discussed in Chapters 6 and 7, there are a significant number of instances where students are subject to repeat take homes and suspensions which, in the absence of an appeals process, are subject to limited oversight, monitoring and review beyond the school level.

The SA Department for Education's appeals process is also distinct from other jurisdictions in relation to the permissible grounds for an appeal. In New South Wales, for example, a student may appeal a decision if they think the decision itself was unfair (NSW Government, 2020). In Victoria, an appeal may be made on grounds including (i) where a student has a history of behavioural issues and there is insufficient evidence of prior interventions designed to address the behaviour and support the student, (ii) the grounds on which the student was expelled are considered unfair, or (iii) there are other extenuating circumstances (Victoria Department of Education and Training, 2020). By limiting the permissible grounds for appeal, the SA Department for Education's current appeals process is not aligned with international human

rights obligations described in Section 3.2.5, and fails to ensure mechanisms are available to challenge decisions that do not uphold students' legislative right to education.

Feedback in relation to appeals processes, while limited, indicated that there is opportunity to improve the effectiveness and fairness of appeals processes. As considered in Section 5.6, roughly half of parent and carer respondents who felt a decision to exclude their child or young person was inappropriate did not to appeal the decision because they: felt it was pointless, did not have the resources or energy to go through the appeals process, did not know about the option to appeal, or did not feel empowered enough to appeal the decision. Alarming, 94.1% of the parent and carer respondents who did appeal a decision felt that the appeals process was not fair, with only one respondent indicating that they found the process to be fair. As described in Section 3.2.5 and above, international human rights obligations require the SA Department for Education to maintain an appeals process that is *independent, effective, accessible, transparent, safe and enforceable*. The evidence received through this Inquiry indicates that the existing appeals process is not aligned with these obligations.

We observed that very few SA Department for Education decisions are subject to independent scrutiny, which raises significant concerns given the various findings of this Inquiry, including the many breaches of international conventions, Commonwealth and state legislation, as well as SA Department for Education's own policy and procedures. While many other administrative decisions of government departments are subject to independent administrative review—such as through the SA Civil and Administrative Tribunal, which is a common avenue for redress across Australian jurisdictions—there is no similar avenue for independent review of administrative decisions such as exclusionary discipline decisions, despite the significant risk of rights breaches and impact on students' interests, wellbeing and outcomes, that such decisions entail. In light of the significance of these decisions, students, parents and carers should have recourse to seek independent review of these decisions through an independent body or tribunal, similar to such models that have been implemented in a variety of international jurisdictions (see Section 4.6.4).

To ensure an appeals process is fair and effective, and that appeals processes, like complaints, can be used to identify areas for service delivery improvement, there must be sufficient mechanisms in place for centralised reporting and analysis of appeals data. The SA Department for Education advised that data in relation to appeals processes are not collected centrally, rather are captured at the regional level, and therefore appeals data was not able to be collected and provided to the Inquiry for analysis. It is apparent that the SA Department for Education does not currently have in place effective mechanisms for centrally collecting, monitoring and reporting data regarding appeals processes, which limits its ability, or the ability of an Inquiry to analyse data to consider how fair and effective the appeals process is, or to support the identification of opportunities for improvements to service delivery. This prevents the SA Department for Education from ensuring school practice is aligned with obligations under international human rights obligations and consistent with principles of best practice. It also limits the SA Department for Education's ability to ensure its functions and responsibilities are discharged in a manner consistent with the objects and principles of the *Education and Children's Services Act 2019* (SA), such as promoting the best interests of students and ensuring the right to education for all students, which other findings of this Inquiry suggest are currently not being upheld to the standard necessary for SA to achieve its goal of providing a world-class education to the children and young people of South Australia.

**Finding 4.2:** While the SA Department for Education’s complaints management policy and procedures demonstrate a commitment to maintaining an effective, accessible, objective, fair and transparent complaints process, complaints continue to be managed at both the school and the Customer Feedback Unit level in a manner that does not effectively uphold these principles. The SA Department for Education’s complaints management processes are not aligned with international human rights obligations or best practice, in that:

- (i) Complaints processes are not independent, and there is a lack of confidence in the fairness and safety of current complaints management processes.
- (ii) Complaints are managed in a way that does not always promote a forward-focused, collaborative and conciliatory approach to dispute resolution.
- (iii) There is limited available support to students, parents and carers to navigate complaints processes, and to facilitate their meaningful participation in complaints processes.
- (iv) Strict implementation of the three-tiered complaints management process results in some complaints being referred back to schools despite warranting independent management at a higher level.

As described in Section 3.9, the SA Department for Education’s complaints policy and procedures demonstrate a commitment to seven core principles which include accessibility, transparency, objectivity, fairness, accountability, privacy, and a commitment to continuous improvement. Limited data received from the SA Department for Education’s Customer Feedback Unit (CFU) suggests that the CFU has successfully increased the proportion of complaints resulting in an assisted resolution: from 32.3% in 2018 to 68.7% in 2019. However, as described in Section 10.1.3, ‘assisted with resolution’ did not necessarily mean that any resolution had been achieved for the complainant. These data and underpinning logics were not comprehensive or readily understandable to the Inquiry team, even after the provision of verbal explanation, and the core principles underpinning existing policy and procedures were not reflected in feedback from parents and carers, as well as some education staff.

We heard from education staff that parent and carer complaints demonstrate a limited understanding of departmental processes which indicates parents and carers may not be adequately supported to navigate the complaints process and departmental policies and procedures. The need for additional support to parents and carers to navigate complaints processes, and departmental policies and procedures generally was identified by several respondents. Furthermore, as we noted at Finding 2.4 and Recommendation 5, several of the SA Department for Education’s policy and procedure documents are not publicly available, which significantly limits parents’ and carers’ ability to access and understand information relevant to making a complaint. Others also acknowledged the power imbalance that parents and carers may experience in the complaints process, and that complaints to the school and the CFU are handled in a manner that appears defensive of departmental staff and not focused on solutions or promoting effective partnerships between the school and the student, parents or carers.

Complaints handling processes have a key role to play in acknowledging service delivery issues, and providing a forward-focused, collaborative, and conciliatory approach to problem-solving that is aimed at preserving students’ rights, interests, and outcomes. However, most parent and carer respondents to this Inquiry stated that they are not satisfied with how complaints are handled: for example, 90.9% were dissatisfied with the complaints process at the school level, and 88.0% were dissatisfied with the management of complaints made to the CFU. Like




education staff, parents and carers expressed concerns that complaints are managed in a way that is defensive of and protects the school and its staff. Respondents also spoke about lack of timely responses from schools and the CFU, lack of communication regarding how a complaint is being managed and feeling that the onus was entirely on the student, parent or carer to prove their case.

We also heard from students who expressed frustration with complaints processes. Some students who had lodged complaints stated that their complaint was not addressed, their views were dismissed, and they were left angry and frustrated with the process. One student expressed that they felt they had been treated with “disdain and dismissal”, while another expressed concern that the information they provided in their complaint had subsequently been shared with others without their permission. Other students expressed that they had decided not to make a complaint as they felt they would be ignored. This reinforces feedback received from students that they feel that they are not included in decision-making about suspensions or exclusions, and feel that their views are not heard in this process, impacting on the perception of fairness and students’ willingness to accept the decision made, and impeding student-teacher relationships and school connectedness. Notably the SA Department for Education’s complaints policy and procedure described in Section 3.9 does not explicitly consider the participation of the student in management of complaints, whether a complaint is made by the student themselves or their parent or carer. This is contrary to National Principle 6 of the National Principles for Child Safe Organisations, endorsed by the Council of Australian Governments in February 2019, which requires organisations including education departments to use a child rights framework to guide their work with children and young people including processes for responding to complaints about the rights and interests of children and young people. As noted in Finding 2.1, the lack of involvement of students in the decision-making process is also non-compliant with international human rights conventions described in Section 3.2.4, best practice described in Section 4.6.2, and the principles and objects of the *Education and Children’s Services Act 2019* (SA).

Nor, as we have heard from parents and carers, do they consider the current complaints process ‘safe’, resulting in many not complaining or attempting instead to make contact with the CFU or Ombudsman directly, at which point they are sent back to the school. Parents and carers expressed significant frustration with what can only be described as a ‘washing machine’ effect, whereby they cannot effectively advocate for their child’s rights and interests for fear of repercussions for their child. Some parents spoke of having other children at the same school and being fearful of being forced to dislocate those children due to a potential breakdown in the relationship due to their advocacy for one of those children. This is one reason the Ombudsman receives so few education-related complaints. The number of complaints received is no indication of the level of need for an Education Ombudsman, rather it reflects the deep reluctance that parents have to advocate for their child in an environment that is not independent, effective, accessible, transparent, safe or enforceable. Another reason the Ombudsman currently receives few complaints is that many parent and carer respondents said they were unaware that the Ombudsman exists.

Parent and carer respondents argued the need for an independent process that would help protect them and their child(ren) by reducing the potential for conflict, addressing power imbalances, and focusing on the preservation of relationships. Respondents noted that they had good reason for bypassing the school and escalating the complaint including, for example, schools not handling a problem or complaint and needing for some other authority to deal with



the complaint independently. Others suggested some complaints may be better handled immediately at a higher level, for example, when a school staff were breaching policy or acting illegally. Predominantly, however, respondents signalled that they had tried to bypass the school because they had already tried unsuccessfully to resolve the problem through informal means, had encountered either dismissive or defensive responses, and were fearful of the repercussions for their child by engaging further at the school level.

These submissions suggest that parent and carer trust in schools' decision-making is less than ideal and call into question the current process whereby parents and carers or students must make a complaint to the school before seeking resolution or mediation elsewhere, either via the CFU or the Ombudsman. While early and local resolution of complaints is to be encouraged and is consistent with the Australian/New Zealand Standard Guidelines for complaint management in organisations (2014) ('A/NZ Standards'), the Standards also note that the three tier model of complaints management should not be unduly rigid, and that the seriousness or complexity of some complaints, and the nature of previous contact the complainant has had with the school may warrant the complaint being dealt with at a more senior level. However, evidence indicates that, in SA, the three-tiered complaints process may be too rigidly applied in a manner that is not aligned with best practice described in the A/NZ Standards

These findings suggest that practice and implementation of complaints handling processes remains inconsistent with the department's policy and procedures and the objects and principles of the *Education and Children's Services Act 2019* (SA). Nor is practice and implementation aligned with international human rights obligations described in Section 3.2.5 or best practice described at 4.6.4.

Critically, these findings represent a lack of public confidence in the fairness and independence of complaints management processes, suggesting the need to adopt a new model to provide students, parents and carers with an independent, effective, accessible, transparent, safe, and enforceable complaints (and appeals) process. Lessons can be drawn from models implemented in other jurisdictions, as described in Section 4.6.4, which provide for the moderation of complaints and appeals through processes that are independent from education providers, including through the use of independently run alternative dispute resolution processes such as mediation (for both complaints and appeals), independent review of appeals through tribunal processes, and ensuring students, parents and carers have access to independent supports that offer advice and information about their rights as well as advocacy support in complaints and appeals processes. International best practice described in Section 4.6.4 also demonstrates the importance of ensuring complaints processes are binding and enforceable to further protect students' access to education. Together these reform measures should reduce the incidence of disagreements, support earlier resolution of complaints, and improve confidence in complaints processes.

**Finding 4.3:** Despite recommendations in the SA Ombudsman's 2016 audit report, there remain significant concerns regarding complaints management processes within the SA Department for Education. Similarly, despite the broad range of recommendations intended to drive systems improvements following several recent inquiries including the Cossey Report (2011), the Nyland Report (2016), and the Select Committee Report (2017), there continue to be significant concerns about the inclusion of all students and use of disciplinary practices within SA Department for Education schools, indicating that there are insufficient monitoring and oversight mechanisms to support continuous improvement in the SA Department for Education's implementation of best practice.

It is evident that despite the SA Ombudsman's audit report on education-related complaints handling processes in 2016, there remain significant concerns about the management of complaints by the SA Department for Education. Additional oversight of the complaints management processes of the SA Department for Education is necessary to ensure complaints management processes are compliant with best practice, are accessible and support the meaningful participation of students, parents and carers. There would be value in an independent body conducting a further audit of the SA Department for Education's complaints management processes with similar Terms of Reference established in the 2016 audit. Such audits should be regularly conducted to ensure continuous oversight of complaints management processes and the extent to which recommendations are effectively implemented.

Throughout this Chapter, we also observed significant concerns regarding school practices, policies and procedures, and oversight mechanisms to ensure compliance with legislative and policy obligations as well as international human rights obligations and best practice. This is despite broad recommendations from previous inquiries for systems improvements to reduce the use of exclusionary practices and improve behaviour supports to students. This includes for example recommendations in the 2011 Cossey Report, and again in the 2016 Nyland report that the SA Department for Education support schools to implement alternatives to exclusionary discipline, including restorative justice practices, to ensure exclusionary practices are used as a last resort. The 2017 report following the Select Committee Inquiry also made recommendations that schools should not use exclusion or suspension as a default behaviour management strategy for students with disability. Feedback from stakeholders and findings discussed throughout this chapter suggests that these recommendations have not been effectively implemented.

An additional level of independent oversight of the SA Department for Education's practices is therefore critical to ensure recommendations for system-wide improvements are effectively implemented, to support continuous improvement in SA government school practices, and to promote and protect the best interests of all students including their right to education under the *Education and Children's Services Act 2019* (SA) and international human rights instruments. In particular this should include oversight of the various practice and systems issues that we heard many students, parents, carers and education staff raise concerns about in feedback to the Inquiry. It is apparent that such concerns are unlikely to be raised as a complaint due to lack of confidence in the complaints process, and are unlikely to be effectively monitored and addressed internally due to limited and irregular data reporting and analysis to identify trends and support service delivery improvements. An independent monitoring or audit

process would ensure a greater level of oversight and accountability to protect all students' right to education.

The SA Ombudsman already has a broad jurisdiction under the *Ombudsman Act 1972 (SA)* to investigate any administrative act of the SA Department for Education, which can be conducted on the Ombudsman's own initiative, and make recommendations regarding the implementation of administrative functions including as provided under SA Department for Education policies and procedures. However the exercise of these oversight functions is limited by resourcing and dependent on issues regarding the SA Department for Education's compliance with legislation, policy and procedure being identified as a priority for the SA Ombudsman, which ultimately must be balanced with other priorities within the SA Ombudsman's broad jurisdiction. In light of the significant level of non-compliance with legislation, policy and procedure identified in this report, more regular auditing must be appropriately prioritised and resourced. Regular review of the SA Department for Education's compliance with legislation, policy and procedures is critical to identifying and implementing system-wide service delivery improvements, promoting the rights and interests of the entire schooling community, and supporting the SA Department for Education's roadmap to establishing and maintaining a world-class education system.

To ensure regular monitoring of the SA Department for Education's compliance with legislation, policy and procedures is appropriately prioritised, a requirement to conduct an biennial audit of the SA Department for Education's compliance should be explicitly legislated, for example by amendment to the *Education and Children's Services Act 2019 (SA)*. This must be supported by adequate funding and resourcing.

The Terms of Reference require consideration as to whether an education specific Ombudsman should be established. We received few submissions in relation to this issue, and feedback was varied. As described in the Findings and Recommendations above, evidence to this Inquiry and observations of best practice internationally support the implementation of complaints and appeals processes that are managed independently from the SA Department for Education. We have recommended an Education Ombudsman (or Education Commission) be established to maintain responsibility for these functions. To support the accessibility of complaints and appeals processes, they must be consistent, independent and intuitive to users. While we note that investigative and complaint functions are already established in the SA Ombudsman under the *Ombudsman Act 1972 (SA)*, we also observed that many students, parents and carers are not aware of the SA Ombudsman's functions. The establishment of a new specific Education Ombudsman (or Education Commission), with responsibility for complaints, appeals and oversight functions will assist to support students', parents' and carers' awareness of independent complaints and appeals process by establishing an intuitive and cohesive 'one stop shop', and may assist to rebuild public confidence in the SA Government's management and oversight of SA Department for Education practices and commitment to establishing a world-class education system.

**Finding 4.4:** Many parents and carers are not aware of options to take a complaint beyond a school or the CFU. Approximately one third of respondents to the submissions survey did not know of the options listed. Furthermore, some government schools still have not implemented recommendations from the SA Ombudsman's 2016 audit of the Department for Education and Child Development's education related complaint handling practices, including that every government school make available on its website the department's complaints brochure.

In Section 3.9, we describe complaint options beyond the school or CFU level, including the SA Ombudsman. We also noted the SA Ombudsman's findings and recommendations from the 2016 audit report, which noted that:

- there are inconsistent policies published by a number of schools,
- few sites had clear, concise information about making a complaint available on their main website,
- an updated departmental brochure that reflects the current policy and procedure for complaints, including individual school site contact details, should be accessible on each school's website.

As part of this Inquiry, as described in Section 3.9, we conducted an audit of a purpose sample of twenty (20) government school websites to identify whether the SA Ombudsman's 2016 audit recommendations have been effectively implemented. We found that three school websites do not include a link to a complaints brochure with local school contact details, five schools did include a link but did not provide local school contact details, and the remaining twelve schools included a link to two different versions of a complaints brochure. We observed that the SA Ombudsman's recommendations may not have been effectively implemented across all government schools.

We also heard from a significant number of parents and carers who indicated they *did not know* that there was an option to complain to the Ombudsman, indicating there still remains a serious gap in knowledge regarding the complaints process, despite the SA Ombudsman's 2016 audit report (considered in Chapter 3) and the Department's provision of additional information about the complaints process in response to the Ombudsman's recommendations. We also found a general lack of awareness or understanding of other avenues for raising concerns about decision-making in government schools, including for example, the Equal Opportunity Commission.

These findings demonstrate more work is needed to ensure effective implementation of the SA Ombudsman's 2016 recommendations. They also demonstrate a lack of alignment with best practice and international human rights obligations, including the obligation to ensure that information about how to challenge violations of students' right to inclusive education are widely disseminated and publicised. The information must be cohesive, clear and accessible for students, parents and carers to ensure they are able to comprehend the information and effectively navigate complaints processes. Furthermore, as described in Chapter 4.6.4, international best practice highlights the need for independent, free and accessible information and advocacy services for students, parents and carers to support their understanding of and ability to navigate complaints processes. The absence of clear and accessible information regarding complaints processes, and access to support to navigate these processes prevents the SA Department for Education from implementing a fair and effective complaints system, limiting its ability to monitor its compliance with obligations under the *Education and Children's Services Act 2019* (SA), including whether schools are providing services in a manner that promotes the right to education and the best interests of all students.

**Finding 4.5:** While improvements have been made to the SA Department for Education’s complaints data management systems, the SA Department for Education does not have effective systems for centralised recording, reporting and analysis of school-based (Level 1) complaints data.

Serious problems exist at the school-level which are not being identified and addressed, especially in relation to the provision of support and adjustments to students with disability, because parents are fearful of the consequences for their child and have no avenue for recourse. Like appeals data, level 1 complaints data is not centrally collected and there is no oversight to ensure that school staff are implementing best practice in response to concerns raised.

We heard that the CFU has commenced processes that involve conducting a root cause analysis to identify why a complaint has been made by examining the human and organisational processes and systems that might have caused it. This process is intended to look beyond the problem and support the identification of underlying factors that are causing it. This approach can help to remedy recurring problems and encourage quality service delivery throughout an organisation and is aligned with the A/NZ Standards.

However, we were unable to ascertain how the SA Department for Education uses complaints data (both Level 1 and Level 2 complaints) to inform policy and program development, or how service delivery issues are identified and reported. Furthermore, we heard that Level 1 complaints are collected within the regions, not centrally, which were unable to be provided for analysis, and were not advised of any regular process for the review and monitoring of complaints data to support service delivery improvements.

We were advised that the SA Department for Education are in the process of implementing a new complaints management system that would provide greater reporting and analysis functionality from late 2020, which may assist in supporting data analysis for service delivery improvement purposes. However, current practice, together with the clear dissatisfaction of submission respondents, indicates that the SA Department for Education does not have in place effective processes for regular review, monitoring and reporting of complaints data, particularly Level 1 complaints, which is not aligned with international human rights obligations described in Section 3.2.5, nor is it aligned with best practice described in Section 4.6.4 or the A/NZ Standards.

RECOMMENDATIONS FOR THE SOUTH AUSTRALIAN GOVERNMENT	FINDINGS
<p><b>RECOMMENDATION 9</b></p> <p>That the South Australian government draw on international best practice by <b>establishing a new independent statutory body</b>, the Education Ombudsman (or Education Commission), with the following functions and responsibilities:</p> <ul style="list-style-type: none"> <li>(a) Management of an independent, effective, accessible, transparent, safe and enforceable <b>adjudication and appeals process</b> that:               <ul style="list-style-type: none"> <li>(i) establishes an <i>independent panel</i>, constituted by persons with relevant expertise and knowledge regarding inclusive education and school discipline, and at least one person with relevant expertise and knowledge working with at-risk groups including students with disability, Aboriginal students and students in care.</li> </ul> </li> </ul>	<p>4.1, 4.2</p>

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- (ii) provides functions to the *independent panel* to:
    - 1. hear appeals against exclusionary discipline decisions on grounds like those specified in 9(a)(iv) below.
    - 2. adjudicate complaints that remain unresolved through mediation under the statutory body's complaints jurisdiction (see 9(b) below).
  - (iii) includes necessary powers to investigate complaints and appeals including power to:
    - 1. obtain information held by the SA Department for Education.
    - 2. exercise powers of a Royal Commission, including power to summons any person to attend, to provide any document and to provide evidence on oath or affirmation.
    - 3. stay (or suspend) a decision pending the resolution of a complaint or appeal.
  - (iv) allows students, parents and carers to appeal any exclusionary discipline decision made by an SA Department for Education site on any of the following grounds:
    - 1. error of fact.
    - 2. error of process.
    - 3. inappropriate length or conditions.
    - 4. insufficient evidence of prior interventions (such as reasonable adjustments) to respond to the behaviour and support the student's inclusion.
    - 5. insufficient evidence of use of evidence-based educative disciplinary options.
    - 6. the grounds on which the exclusionary disciplinary decision was made is considered unfair.
  - (v) provides *free independent dispute resolution processes*, such as mediation, to run alongside applications to appeal an exclusionary discipline decision to support early resolution of issues subject to the appeal application, or to resolve complaints raised to the independent body.
  - (vi) ensures that any decision made by the panel is legally binding and enforceable.
- (b) Management of an independent, effective, accessible, transparent, safe and enforceable **complaints process** ('complaints jurisdiction') that:
- (i) ensures the dissemination of accessible information to students, parents and carers regarding their complaint and appeal rights, in collaboration with the SA Department for Education,
  - (ii) allows students, parents and carers to lodge complaints to the independent body, rather than the SA Department for Education Customer Feedback Unit, if the issue is unable to be resolved at the school level.
  - (iii) allows students, parents and carers to lodge complaints to the independent body directly *without* first raising the issue at the local school level, for example where there have been instances of gatekeeping practices, informal exclusionary discipline, or misuse of student support funding.
  - (iv) provides free independent dispute resolution processes, such as mediation, to attempt to resolve all complaints raised to the independent body.
  - (v) ensures that any agreements reached through mediation of complaints is legally binding and enforceable.
- (c) Maintaining an **integrated electronic data management system** for recording, reporting and analysis of data relating to appeals and complaints to the Education Ombudsman which should:
- (i) be used to support the identification of systemic trends and inform the discharge of oversight and monitoring functions, and
  - (ii) be regularly shared with the SA Department for Education to support the SA Department for Education's implementation of service delivery improvements.

\* See also Recommendations 10 and 14.

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**RECOMMENDATION 10**

4.3

That the South Australian government add to the responsibilities of the recommended new independent statutory body (see also Recommendation 10), the Education Ombudsman (or Education Commission), ***broad oversight and monitoring responsibilities***, which should include:

- (a) The Education Ombudsman to conduct an audit every two years (commencing 2022) to monitor the SA Department for Education's compliance with:
    - (i) the *Education and Children's Services Act 2019* (SA), and any other relevant Commonwealth or state legislation including the *Disability Discrimination Act 1992* (Cth) and the *Disability Standards for Education 2015* (Cth); and
    - (ii) SA Department for Education policy and procedures.
  - (b) The SA Department for Education must ensure that the Education Ombudsman is provided with such information as they may require for the purpose of audit.
  - (c) A report with recommendations following an audit must be presented to the Attorney-General in the year the audit is conducted.
  - (d) The Attorney-General must, after receipt of an audit report, cause copies of the report to be laid before each House of Parliament.
  - (e) The Education Ombudsman's audit must have regard to relevant international human rights obligations and best practice standards.
  - (f) The Education Ombudsman's audit should consider:
    - (i) compliance with requirements to notify relevant parties of decisions regarding exclusionary discipline.
    - (ii) compliance with conferencing and re-entry procedures.
    - (iii) ensuring decision-making about exclusionary discipline is procedurally fair and supports the meaningful participation of all relevant parties, including the student.
    - (iv) provision of educational and developmental opportunities during a disciplinary absence.
    - (v) complaints management processes within SA Department for Education school, including:
      1. whether existing policy, procedure and practice aligns with best practice standards including the Australian/New Zealand Standard Guidelines for complaint management in organisations.
      2. the extent to which sites have in place accessible information for the public to understand their rights to complain, the complaints process, and what might happen if they complain.
      3. the extent to which complainants are supported to make complaints and navigate the complaints process.
      4. the extent to which complaints management processes support the meaningful participation of students, where appropriate.
      5. the quality and consistency of data recording and reporting of complaints data.
      6. the existence and quality of processes for regular analysis of complaints data to support the identification of system trends and service delivery improvements.
    - (vi) the existence and quality of processes for regular analysis of complaints data to support the identification of system trends and service delivery improvements.
    - (vii) the effectiveness of accountability mechanisms for reducing and eliminating the over-representation of at-risk students in exclusionary discipline practices, implementation of behaviour support policies and procedures, and provision of reasonable adjustments and appropriately targeted evidence-based support to students with disability (see Recommendation 16).
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\* See also Recommendation 14.

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**RECOMMENDATION 11**

4.4

That the South Australian government:

Fund an **independent advice and information service for students, parents and carers** to obtain information about their rights and support to navigate complaints and appeals processes. In some instances, this service may also provide advocacy support to students, parents and carers. This service could be provided through funding a panel of non-government organisations or an existing independent statutory body.

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**RECOMMENDATIONS FOR THE SA DEPARTMENT FOR EDUCATION**

**FINDINGS**

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**RECOMMENDATION 12**

4.4, 4.5

That the SA Department for Education:

- (a) Work with each of the regions through the Education Directors to ensure that **schools are compliant with complaints and appeals processes** and that parents and carers are aware of the options for taking a complaint beyond the school.
- (b) Implement automated and integrated electronic data collection systems for the centralised recording, reporting and analysis of **school-based (Level 1) complaints data** to support the identification of systems trends and service delivery improvements, and ensure this data is accessible to school leaders and Education Directors to support regional and school-based decision-making regarding systems and service delivery improvements.

\* See also Recommendation 9(c) regarding the recording, reporting and analysis of data for complaints and appeals to the Education Ombudsman.

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## 11.5 PURPOSE, PREVALENCE AND USE OF FORMAL AND INFORMAL EXCLUSIONARY DISCIPLINE

### Terms of Reference:


- *The prevalence and use of [take homes], formal and informal suspensions, exclusions and expulsions.*
- *The use of suspensions for attracting funding and other supports for students.*
- *Whether the department is monitoring and preventing instances of suspensions, exclusions and expulsions which occur outside the formal processes.*

**Finding 5.1:** Take homes, suspensions and exclusions are used too frequently, for inappropriate or minor reasons (such as not following instructions, minor physical acts, talking in or missing class), and in a manner that is not aligned with the SA Department for Education's SEE Procedures. Primary school aged students especially are too regularly sent home, suspended or excluded for minor behaviours, some of which are influenced by developmental factors like maturity and self-regulation. The proportion of take homes, suspensions and exclusions for severe incidents is significantly lower, indicating that exclusionary discipline is being used as a default behaviour management strategy and not as a last resort. The permissible grounds for suspension and exclusion within the Education Act are too broad, subjective, and, in some cases, discriminatory and not aligned with best practice or international human rights obligations.

The use of take homes and suspensions often lead to further escalation in the use of take homes, suspensions and exclusions, indicating take homes and suspensions are being used in a manner that does not address the drivers of problem behaviours but likely reinforces it. This escalation is exemplified in the finding that while first/single take home incidents have increased by 36.2% in the past decade, subsequent or multiple incidents have increased by 78.1%. Worryingly, the greatest increase in the use of take homes is in Reception which recorded an increase of 107.7% between 2010 and 2019 with no decline in the use of suspension. In fact, suspensions in primary increased by 23.1% during that period.

Exclusions are also being used in a manner that is inconsistent with requirements under the Education Act, including the requirement that a student must be suspended prior to an exclusion. For example, 23.8% of students excluded in 2019 were not issued a suspension prior to the exclusion incident. Importantly, evidence suggests that exclusions are being used for students with disability who are not provided with the level of reasonable adjustments likely necessary to prevent incidents that lead to the use of exclusion. The use of exclusions results in many students, particularly students with disability, Aboriginal students, and students in care being removed from school for significant periods of time (sometimes months at a time) with limited or no access to quality educational and developmental opportunities during the exclusion.

**Take homes.** Take homes are not described in the *Education and Childrens Services Act 2019* (SA) or *Education and Children's Services Regulations 2020* (SA), only the SEE Procedures. As described in Section 3.6, the SA Department for Education's SEE Procedures require take homes to be used only as a last resort and in a behaviour emergency, and the student must be supported to return to school the following school day. However, we heard that take homes continue to be used too frequently, for inappropriate reasons and in breach of SEE Procedures. We also heard that some students were subject to take homes on a daily basis (7.4% of parent/carer respondents), every few days (17.6%) or weekly (25.0%). Respondents also



commented that take homes continue to be used other than as a last resort, particularly in primary schools, with schools relying on take homes instead of effectively implementing appropriate strategies or adjustments to support the student to remain at school.

These observations were confirmed by the SA Department for Education's data relating to the use of take homes, analysed in Chapters 6 and 7. We found that the number of primary school aged students receiving take homes increased by 53.7% between 2010 to 2019, and repeat take homes increased by 105.6%. Alarming the largest increase in use of take homes over this 10-year period was in Reception, with an increase of 179.5%. Data regarding the repeat use of take homes for both primary and secondary school students was also concerning, with 18.9% of students receiving three to five take homes, 7.7% receiving six to ten, and 3.2% receiving more than 10 take homes in 2019. In Case Study 2, we identified that 64 primary school aged children received 8.3% of take homes in 2019, averaging 20 take homes per student. The high rate of repeat take homes, particularly for Reception and primary school students, suggests many students are not being provided appropriate adjustments and supports to remain at school, take homes are too frequently being used, and that they are not being used as a last resort.

We heard from a number of SA Department for Education staff that take homes are used to de-escalate situations, enable students to self-regulate by removing them from an aversive environment, and to avoid the use of suspension and exclusion. However as noted at Section 6.4, while broad trends for take home and suspension data between 2010 to 2019 show an increase in take homes and a decrease in suspensions, our analysis of the data by school phase demonstrates that the increase in take homes has taken place in primary schools, whereas the decrease in suspensions has occurred in secondary schools. Further, despite the increase in take homes in primary schools, there was no corresponding decrease in suspensions in primary schools; in fact, we observed that primary school suspensions *also* increased. These patterns suggest take homes are not an effective de-escalation strategy and that they are being used inappropriately.

We also found that the proportion of take homes for Physical Acts (Minor) in primary is considerably higher than in secondary, with most of these being issued in relation to incidents involving another student. As noted in Section 7.1.5, one possible explanation for this discrepancy is developmental immaturity: younger children are more likely to engage in physical altercations because they are yet to develop the self-regulation and language competence to engage in verbal negotiation. For some children, especially those with language and attention difficulties, this is a skill that must be taught using an educative response. Note the best practice reforms in United States public schools, described in Section 4.2.2, have mandated explicit teaching of social-emotional skills and banned the use of exclusionary discipline with young children due to the significant negative effects it has on social-emotional, academic and behavioural development.

Patterns relating to the reasons for take homes were extremely concerning. The majority of take homes were used in response to minor infractions (e.g., school rules violations, such as non-compliance with instructions). Take homes for minor reasons accounted for just over one third of primary school take homes and just over half of secondary school take homes in 2019. One in 10 take homes in both primary and secondary were used as a response to disengaged behaviours, such as missing class or leaving school grounds, despite the reinforcing effect that take homes are likely to have on task or school avoidance. A substantial number of take homes were also used in response to disruptive behaviours, such as making noises and being


uncooperative or antisocial. Note that none of these incidents would qualify for a three-day out-of-school suspension in Chicago Public Schools, due to the reforms taking place across the United States in recognition of the damage caused by exclusionary discipline, especially to students in equity priority groups.

These data indicate that take homes are commonly being used inappropriately, other than as a last resort or in response to behaviour emergencies, risking significant loss of learning opportunities and disengagement from education often for minor reasons. As we discussed in Section 4.1, take homes, like other forms of exclusionary discipline, inadvertently provide relief from an aversive environment, may reinforce undesired behaviours, and do not address the underlying causes of the behaviour, such as barriers in the environment or lack of appropriate adjustments or supports. The significant use of take homes, particularly so early in children's development, is of real concern given the potential for reinforcement and escalation over time, raising concerns that existing processes, guidance and monitoring around the use of these strategies are ineffective and fail to ensure compliance the principles and objects of the *Education and Children's Services Act 2019* (SA) including the right to education and the best interests of all students, international human rights obligations described in Chapter 3, and best practice described in Chapter 4.

**Suspensions.** As described in Section 3.6.2, the *Education and Children's Services Act 2019* (SA) permits the use of suspensions on the following grounds:

- (a) the student has threatened or perpetrated violence; or
- (b) the student has acted in a manner that threatens the safety or wellbeing of a student or member of staff of, or other person associated with, the school (including by sexually harassing, racially vilifying, verbally abusing or bullying that person); or
- (c) the student has acted illegally; or
- (d) the student has interfered with the ability of a teacher to instruct students or of a student to benefit from that instruction; or
- (e) the student has acted in a manner that threatens the good order of the school by persistently contravening or failing to comply with rules applying within the school with respect to behaviour; or
- (f) the student shows persistent and wilful inattention or indifference to schoolwork.

These provide very broad grounds for the use of suspensions. We heard from several stakeholders that these grounds are too broad and may drive the overuse and misuse of suspensions in SA government schools. Further, their subjectiveness is likely to be a factor in the disproportionate use against students with disability, students in care, and Aboriginal students (discussed further in section 11.6 below). In light of the significant impacts of suspensions as described in Section 4.1, and international human rights obligations to support all students' right to education, suspensions should be reserved for only the most serious of incidents, and only as a last resort after all reasonable attempts to support the student through educative responses, such as explicitly teaching expected behaviours, restorative practice and skill-building in-school suspension, and only after the provision of well-designed relevant and effective reasonable adjustments. As discussed in Section 4.3, grounds (d), (e) and (f) are very broad, highly subjective and, in the case of students with a disability, potentially discriminatory. The negative effects of exclusionary discipline are such that they should not be used for minor incidents and low-level disruptive and disengaged behaviours. Evidence indicates that



exclusionary practices do not effectively address such behaviours, but rather reinforce them. These grounds also have the potential to be applied in a manner that discriminates against priority equity groups, particularly students with disability who, without appropriate classroom supports and adjustments may be more likely to respond to triggers in the classroom environment with behaviours that fall within these very broad grounds for suspension or younger students whose behaviours may be influenced by developmental factors as noted above. As discussed in Section 4.2, these concerns have been recognised in other jurisdictions (e.g. California, Chicago), where governments have implemented law reforms to limit permissible grounds for suspension that drive high suspension rates for minor behaviours. Importantly, the US reforms have coupled changes in permissible grounds with the mandated implementation of Multi-Tiered Systems of Supports (MTSS) that address both the factors driving behavioural incidents (e.g., accessibility and quality of teaching, racism and bullying), whilst also providing alternative and educative disciplinary responses that increase in terms of intensity. The existing grounds for suspension are not aligned with best practice or international human rights obligations and contribute to practices that may breach obligations under the DDA and DSE.

In Section 6.4, we observed that there has been a gradual increase in the use of suspensions in the primary phase of schooling, with a 23.1% increase in first time or single suspensions since 2010, and a 34.3% increase in the number of repeat suspensions. The suspension rate begins with 47.8 suspensions per 1000 students in Reception, rising each year level and peaking with 232.1 suspensions per 1000 students in Year 9. Worryingly, the rate of suspensions is higher in Reception than it is in Year 12. Evidently a large number of students are being removed from school in the critical early years through take homes, as well as suspensions, raising concerns about the long-term impacts and escalation to more serious incidents and more severe disciplinary responses, including exclusions. While we observe in Section 6.4 that suspensions for secondary students has declined over time, we also speculate whether this was offset by an increase in FLO enrolments which raise other concerns around impacts on student's rights, interests and outcomes that are considered below. We found that the rate of repeat suspensions remains high for both primary and secondary students, with 49.5% of suspensions in 2019 being repeat suspensions. This highlights the ineffectiveness of suspension as a means to achieve behavioural change. These findings are strengthened by the observations made in Case Study 4, which identified 42 students who received 10 or more suspensions in 2019, accounting for 458 suspensions between them with most of these being for minor reasons.

These data are particularly concerning, given the range of reasons for which suspensions are being used. We heard from many stakeholders that suspensions are used for inappropriate reasons that go beyond the grounds permitted in the *Education and Children's Services Act 2019* (SA) and the SEE Procedures. For example, we heard of experiences where schools were repeatedly suspending children until parents move schools, using suspensions to "get rid of" complaining parents, and using suspensions to mollify teachers or provide them with respite. Such practices are a clear breach of the *Education and Children's Services Act 2019* (SA) and SEE Procedures, and are not aligned with international human rights obligations described in Chapter 3 or best practice described in Chapter 4.

We also found that suspensions are overused in response to minor behaviours that should not warrant a suspension. Similar to take homes, we heard that suspensions are being used as a response to disengaged behaviours such as missing class or leaving school grounds, despite

the reinforcing effect this has on school avoidance, and the impacts on school connectedness and other serious long-term impacts described in Section 4.1. This was reinforced by feedback from students, who spoke of being suspended for ‘wagging’ and who correctly questioned the sense in suspending a student who is already avoiding school. In fact we heard from most students, parents and carers that suspensions are not an effective means of addressing a student’s behaviour, as suspensions are often viewed as a reward or relief from a difficult environment, serving to reinforce the behaviour the suspension is intended to address. Several students said that they do not care about being suspended, which speaks to the desensitising effect of overuse.

These observations are reinforced by the SA Department for Education’s data. In 2019, 29.5% of suspensions (amounting to a total of 5,980 suspensions) were used in response to school rules violations including being out of bounds or non-compliance with reasonable instructions. Just over one in 20 suspensions were used in response to disengaged behaviours including work avoidance, missing class and leaving school grounds. The majority of suspensions were in response to ‘Minor Physical Acts’, accounting for 36.6% of suspensions in 2019, with 83.2% of these incidents being between students (for example, physical altercations between students), highlighting the need for an educative response, as offered by restorative practices as described in Section 4.6.7.

These patterns demonstrate that the use of suspensions for inappropriate reasons is a prominent issue in South Australian government schools. This is inconsistent with the principles and objects of the *Education and Children’s Services Act 2019* (SA) including the right to education and the best interests of students, and is not aligned with international human rights obligations described in Chapter 3 or best practice described in Chapter 4.

We also found that primary school aged students are more frequently suspended than their secondary school aged peers in three key categories: ‘Minor Physical Acts’, ‘Sexual Acts and Behaviours’ and ‘Physical Acts that Harm Others (major and/or with a weapon; e.g., stick, furniture)’. In particular, while one in five secondary students received a suspension for ‘Minor Physical Acts’, almost one in two primary school suspensions fell into this category. In the other categories, the most common incidents were ‘Sexual Behaviour – Problematic’, ‘Sexual Acts and Behaviours’ (e.g., exposing genitalia), and ‘Physical Acts that Harm Others (major and/or with a weapon)—Furniture (e.g., overturning a desk or chair). As with take homes, these higher rates in primary school suggest the involvement of developmental factors, like maturity and self-regulation, which underscores the importance of explicit educative responses to developing children, and to ensure the use of exclusionary discipline is minimised and employed only as a last resort. The failure to ensure least-restrictive educative responses are provided and exclusionary practices avoided for primary school students, is inconsistent with the principles and objects of the *Education and Children’s Services Act 2019* (SA), and is not aligned with international human rights obligations described in Chapter 3 and best practice described in Chapter 4.

**Exclusions.** As described in Section 3.6.3, the *Education and Children’s Services Act 2019* (SA) permits the use of exclusions on the following grounds:

- (a) the student has threatened or perpetrated violence; or
- (b) the student has acted in a manner that threatens the safety or wellbeing of a student or member of staff of, or other person associated with, the school (including by sexually harassing, racially vilifying, verbally abusing or bullying that person); or
- (c) the student has acted illegally; or

- (d) the student has persistently interfered with the ability of a teacher to instruct students or of a student to benefit from that instruction; or
- (e) the student has acted in a manner that threatens the good order of the school by persistently contravening or failing to comply with rules applying within the school with respect to behaviour.

South Australia is an outlier in relation to its use of exclusions which are unique in comparison to other Australian state government sectors. SA exclusions permit the removal of a student from school for a very lengthy period and may be used in response to a broad range of grounds. While other jurisdictions reserve more serious disciplinary responses to the most serious of behaviours, this is not the case in South Australian government schools. Most parents and carers identified that exclusions were used in response to minor behaviours, such as disengaged or off-task behaviours. This was reflected in the SA Department for Education's own data, which is clearly skewed towards grounds (d) and (e), as well as threatened as opposed to perpetuated violence in (a). In 2019, one third of exclusions (33.4%) were in the 'Minor Physical Acts' category, with approximately three quarters of these involving incidents between students resulting in minor physical assault (e.g., fighting). Just over one fifth (22.0%) were for 'School Rules Violations', with more than half of these being issued for 'non-compliance with reasonable instructions'. Exclusions for disruptive and disengaged behaviours accounted for 4.4% of incidents in 2019, encompassing 15 and 28 exclusions respectively. Furthermore, as described in Case Study 5, of the 92 students who received more than one exclusion in 2019, more than three-quarters were issued for "Minor Physical Acts", "Rules Violations", and "Written and Verbal Threats". These are all incidents that would not even qualify for a three-day out-of-school suspension in Chicago Public Schools without district approval based on documented demonstration of repeated behaviour *despite* the implementation of alternative responses, including restorative practice followed by 3 days of skill-building in-school suspension. As noted in Section 4.2.2, the US reforms were enacted in response to Civil Rights cautions against discriminatory treatment of racial minorities and students with disability due to the documented overrepresentation of students in these groups. The Inquiry found that students in priority equity groups (Aboriginal, with disability, in care) were overrepresented in every analysis relating to the use of exclusionary discipline, including exclusions but especially in relation to repeat exclusions.

The SA Department for Education's data also indicates that requirements under the *Education and Children's Services Act 2019* (SA) to suspend a student for a period not exceeding five consecutive school days before excluding the student are not routinely followed. As described in Section 3.6.3, a principal cannot exclude a student unless the student has first been suspended for a period not exceeding five consecutive school days (section 77(6) of the *Education and Children's Services Act 2019* (SA), previously section 45(3) of the *Education Regulations 2012* (SA)). During this five day period, a pre-exclusion conference (now 'directions conference') must be held with the student, their parents, and relevant professionals to discuss the student's behaviour, next steps and whether to proceed with an exclusion (SEE Procedures, 2020, 12). However as described in Section 7.10, the SA Department for Education's data indicates that in 2019, 209 (23.8%) of students who were excluded at least once during the year had not been issued any suspensions leading up to the initial exclusion decision. Further, some of these students received more than one exclusion in 2019 but received no suspensions prior to the exclusion.

These data suggest that either schools are not recording suspension data pending an exclusion decision, or simply are going straight to an exclusion in breach of legislative obligations which

would also suggest obligations under the SEE Procedures to consult with the student and their parents before an exclusion decision were also not followed. More than half of these were students with a disability, one in five were Aboriginal students, and 7.7% were students in care, demonstrating that these apparent breaches of legislative obligations are disproportionately impacting vulnerable cohorts. Furthermore, in Section 7.10.3, we also observed that 149 students who were excluded in 2019 did not receive a prior suspension on the same grounds as the exclusion, which unless entirely accounted for by data recording issues, suggests that these students may not have been suspended immediately prior to the exclusion as required under the *Education and Children's Services Act 2019* (SA) and SEE Procedures, and that these exclusions were not used as a disciplinary response of last resort as required under the SEE Procedures.

Findings that many of these students are not provided with the level of reasonable adjustments likely necessary to prevent the types of incidents leading to the use of exclusion, that suspensions pending exclusions and pre-exclusion conferences may not always be enacted, that educational and behavioural supports or interventions during an exclusionary period are also often not provided, and that some—mainly those with a disability—are missing months of school on successive exclusions, raises significant concerns about the use of exclusions in South Australian government schools. These practices are inconsistent with the principles and objects of the *Education and Children's Services Act 2019* (SA), breach student's rights and educator's international human rights obligations described in Chapter 3 and are inconsistent with best practice described in Chapter 4.

**Effects of exclusionary discipline:** In Case Study 6, using longitudinal data for 24 Year 9 students who had received more than one exclusion in 2019, we described the disciplinary histories and trajectories of these students. We found that most of these students, their trajectory towards exclusion commenced with take homes and suspensions in primary school, with at least one commencing in Reception. The graduation from take homes and suspensions in early years to more frequent suspensions and exclusions in secondary school is clearly evident for this group. In Case Study 8, we also observed that in 2019, more than three quarters of students who received at least one exclusion had also received an average of three suspensions during that year prior to the exclusion, with almost all of these being students with disability, Aboriginal students and students in care. These data indicate that the use of take homes and suspensions were not effective at addressing undesired behaviours and that exclusionary discipline may contribute to use of more serious disciplinary responses in later schooling years. These data also demonstrate that existing practices and monitoring frameworks around the use and escalation of disciplinary responses to student behaviours are not effective at supporting students' right to education, and therefore fail to align with international human rights obligations described in Chapter 3 and best practice described in Chapter 4.



**Finding 5.2:** There is a consistent and significant increase in the number of suspensions between Year 7 and Year 8, raising concerns about secondary school culture and practice, and the potential impacts when Year 7 transitions to the secondary phase of schooling. The increase in suspensions between Year 7 and Year 8 in 2019, for example, was 58.9%. Put another way, there were 141.4 incidents per 1000 Year 7 students compared to 227.9 incidents per 1000 Year 8 students. This higher suspension rate is likely to shift from Year 8 to Year 7 when Year 7 transitions to the secondary phase of schooling in 2022, if the SA DfE does not implement reforms to limit the number of teachers that Year 7 students must navigate in a day, explicitly teach prosocial self-management skills, ensure evidence-based best practice is in place to prevent and address behavioural incidents, and achieve consistency between classrooms and across schools.

We observed in the SA Department for Education's suspension data, described in Section 7.3, that there is a consistently steep increase in the rate of suspensions between Year 7 (currently the last year of primary school in South Australia) and Year 8 (currently the first year of secondary school in South Australia). These patterns raise concerns about secondary school culture and practice in the use of exclusionary discipline, and the need for effective support of students' transition from primary to secondary schooling environments. This is especially important for students with a disability, many of whom struggle due to inconsistencies between teachers. As noted in Section 7.3, if improvements are not made to secondary school culture and practice, and effective strategies put in place to support the transition of Year 7 students into the secondary schooling phase, there is significant risk that the steep increase in suspensions will shift to Year 7 students as it did in Queensland following similar secondary schooling reforms (Graham, 2018). Such a shift would mean more vulnerable students, particularly students with disability, in care and Aboriginal students being impacted by exclusionary discipline earlier in life, increasing risks of compounding impacts described in Section 4.1.

**Finding 5.3:** Requirements under the Education Act to obtain approval before suspending a student for more than 15 school days or on more than four occasions in one school year are not routinely followed. For example, 278 students were suspended for more than 15 days in 2019, and 804 were suspended on more than four occasions, leading to 1,798 suspensions above the legislative threshold. Similarly, requirements to obtain approval before excluding a student for a period longer than 20 weeks in a school year do not appear to be routinely followed. We heard that the approval is delegated to Education Directors, however, staff interviewed were not aware of this delegation and could not recall approving any permission requests. The SA Department for Education does not have in place effective mechanisms to enforce and monitor compliance with these statutory thresholds.

As described in Section 3.6.2, a student cannot be suspended for more than 15 school days in one calendar year, or on more than four separate occasions per calendar year, unless authorised by the Chief Executive of the Department for Education (*Education and Children's Services Act 2019* (SA), s. 76(3)). We were advised that the authority to approve a suspension beyond these statutory limits is delegated to Education Directors, and that when a school principal attempts to process a suspension above these limits in EDSAS they are prompted to seek approval from the Education Director before proceeding with the suspension. These safeguards are critical to ensure decisions about repeat suspensions are subject to adequate

oversight, given the significant detrimental impacts of repeat suspensions described in Section 4.1.

However, we heard from a number of education leaders that the prompt in EDSAS can be overridden as this is just a prompt and not a mandatory action. We heard that as a result, approval is often not sought before proceeding with a suspension over the statutory limits. This is particularly concerning in light of the SA Department for Education's data described in Case Study 3, which indicates in 2019, 278 students were suspended for more than 15 days, and 804 students were suspended more than four times accounting for a total of 1,798 suspensions issued beyond the legislative threshold in the 2019 school year.

Similarly, a school must not exclude a student for a period longer than a total of 20 weeks in one school year, unless authorised by the Chief Executive of the Department for Education (*Education and Children's Services Act 2019 (SA)*, s. 77(5)). According to the SA Department for Education's data, seven students were excluded for more than 20 weeks each in the 2019 school year.

These data suggest that SA government schools are frequently breaching legislative obligations by suspending or excluding students above the legislative thresholds without obtaining approval of the Chief Executive or delegate. It is also evident that the SA Department for Education does not currently have in place adequate mechanisms for enforcing or monitoring compliance with these legislative thresholds, which limits the SA Department for Education's ability to ensure compliance with obligations under the *Education and Children's Services Act 2019 (SA)*, international human rights obligations described in Chapter 3, and best practice described in Chapter 4.

**Finding 5.4:** There is evidence that schools continue to use informal take homes and suspensions, and that formal suspensions are misused to build a case for funding or other supports for students. These practices disproportionately affect students with disability, some of whom are not receiving the levels of adjustment necessary to prevent the behaviours for which they are sent home, suspended or excluded. The use of informal take homes and suspensions, as well as formal suspensions for inappropriate reasons is not effectively monitored or prevented by the SA Department for Education.

As discussed in Section 3.7, the SA Department for Education is unique in that it explicitly regulates the use of take homes in government schools. However there remain concerns that take homes and suspensions continue to be used outside the formal processes required under the SEE Procedures. Of particular concern, more than half of parents and carers who identified that they had been asked to take their child home during a school day indicated that the take home had been extended beyond a single day. We also heard in submissions by staff and parents and carers that not all take homes are being recorded and that informal take homes still occur. Further, we heard from parents and carers that they have been asked to keep their child at home for several days, informally and in lieu of a formal suspension. Consequently, while concerns noted above around the frequent and inappropriate use of formal (recorded) take homes are significant, these concerns and their impacts on the rights and interests of children and young people could potentially be more severe than documented here. The continued use of informal take homes, and particularly their extension beyond the rest of a school day is a breach of the SEE Procedures, is inconsistent with the principles and objects of

the *Education and Children's Services Act 2019* (SA), and is not aligned with international human rights obligations described in Chapter 3 or best practice described in Chapter 4.

While the prevalence of informal suspensions is difficult to determine as there is no reliable data regarding the frequency of their use, we heard from many stakeholders that schools do continue to use informal suspensions for purposes beyond those permitted in SA legislation and policy. For example, we heard that schools have asked parents to keep students at home rather than formally suspending a student in order to improve school data (that is, by reducing the number of suspensions formally recorded). Education staff noted that the systems for monitoring these types of practices are largely internal at each site, and therefore a site leader or delegate has complete, unfettered control with limited oversight or monitoring of these practices serving to discourage their use.

We also heard from many school staff that suspensions are understood by schools as a means to highlight that additional resources or funding are needed. Nearly one third of parents and carers indicated they had been implicitly or explicitly told that a suspension was necessary to secure funding, for example by the school communicating to the parent or carer that 'patterns of behaviour' and suspensions need to be evident to support additional resource requests. The consistency in parents/carers accounts and the fact that their comments resonate with comments of parents of students with disability, as well as school staff in other states (Graham, 2020; 2018; 2015), suggest that there is a perverse incentive (either perceived or real) built into the SA Department for Education's support allocation method that IESP may or may not be addressing.

Increases in funding do not appear to be resulting in improved outcomes for students with a disability with take homes, suspensions and exclusions rising each year, in excess of NCCD population increases. These data highlight serious concerns regarding the effectiveness of oversight mechanisms for monitoring whether disability funding and resulting adjustments actually occurred, were appropriate, and were effective, as the Inquiry heard repeated calls from school staff for more funding for students with disabilities and claims that funding levels have not kept pace with the number of students with disability, especially in relation to the support of students in mainstream schools. This is a common complaint that is not unique to the SA government school sector. To investigate, we requested financial data from the SA Department for Education. Our analysis calls into question the claim that funding for students with disability has not increased or kept pace with the number of students identified. Rather, our analysis shows that funding for students with disabilities in SA government schools has increased significantly over the last 10 years and reflects a pattern of expenditure not unlike that identified a decade ago in New South Wales (Graham & Sweller, 2011).

As discussed in Section 9.6.1, funding to support students with a disability has increased by 143.1% since 2010 and now accounts for 7.2% of the total education budget, up from 4.2% in 2010. The education budget has itself increased by a lesser amount (55.6%), meaning that the increase in funding for students with disability represents a real increase and is not simply the result of inflation. When these increases in funding for students with disability are plotted alongside increases in the use of exclusionary discipline, especially in relation to the overrepresentation of students with disability, together with the feedback from parents and data showing students with disability are not receiving the adjustments and support to which they are entitled, they paint a worrying picture and raise very serious questions as to the use of disability support funding in SA government schools, the overuse of exclusionary discipline against students with disability, and the effectiveness of mechanisms intended to support

students with disability and ensure disciplinary practices are used as a last resort. Further, they raise questions as to whether existing systems are adequate to promote outcomes consistent with the principles and objects of the *Education and Children’s Services Act 2019* (SA) and SEE Procedures, obligations under the DDA and DSE, international human rights obligations described in Chapter 3, and best practice described in Chapter 4.

RECOMMENDATIONS FOR THE SOUTH AUSTRALIAN GOVERNMENT	FINDINGS
<p><b>RECOMMENDATION 13</b></p> <p>That the South Australian government amend the <i>Education and Children’s Services Act 2019</i> (SA) to:</p> <ul style="list-style-type: none"> <li>(a) <b>Include take homes.</b></li> <li>(b) Improve clarity and reduce subjectiveness of interpretation by <b>revising and making explicit the grounds permissible for the use of exclusionary discipline</b>, as per international best practice examples, including through: <ul style="list-style-type: none"> <li>(i) the introduction of levels of incident severity (lower level and severe), and</li> <li>(ii) providing a list of approved responses for each level,</li> <li>(iii) proscribing the use of all forms of exclusionary discipline for lower level (minor) incidents,</li> <li>(iv) proscribing the use of any form of exclusionary discipline—for any reason—to children in Reception through to end Grade 2.</li> </ul> </li> <li>(c) Include an explicit <b>requirement that schools implement evidence-based alternative responses</b> to disciplinary infractions, such as restorative practice and skill-building in-school-suspension, to be enacted within a multidimensional Multi-Tiered System of Support (MTSS) framework designed to improve students’ academic, social-emotional and behavioural outcomes (as suggested in Recommendation 3b).</li> <li>(d) Change the <b>permissible periods of suspension</b> from 1-5 days to align with other Australian states (e.g., WA, NSW, Tasmania), by encompassing short and long suspensions of 1-5 days and 6-10 days respectively, reserving long suspensions for students in Grades 7 to 12 and only for the most severe incident level (e.g., hard drugs, possession of a deadly weapon, serious physical assault requiring medical attention, deliberate physical assault of a teacher, sexual harassment and sexual assault).</li> <li>(e) <b>Implement additional safeguards for priority equity groups</b> (e.g., students with disability, Aboriginal students and students in care), such as requiring principals to ensure effective reasonable adjustments and supports are in place for students with disability, that trauma-informed practices have been implemented, and that culturally appropriate pedagogies are in place and being employed with fidelity prior to issuing a take home or suspension.</li> <li>(f) <b>Abolish exclusions,</b></li> <li>(g) <b>Require written approval</b> from Education Directors to allow more than four (4) take homes in a school year,</li> <li>(h) <b>Require written approval</b> from Education Directors to allow more than two (2) suspensions or more than 10 days suspension in a school year,</li> </ul>	<p>5.1, 5.2</p>

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- (i) Trigger formal departmental level **review** of the student’s educational program, including the appropriateness and relevance of the supports, adjustments and funding being provided to the student, on breach of the thresholds at (g) and (h).

\* *Monitoring implementation of these legislative thresholds and safeguards should be the responsibility of the new independent statutory body in Recommendation 14 below.*

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**RECOMMENDATION 14** 5.3, 5.4

That the South Australian government add to the responsibilities of the recommended new independent statutory body, the Education Ombudsman (or Education Commission), discussed in Recommendations 9 and 10:

- (a) Processes to enable students or their parent or carer **to report the inappropriate use of informal exclusionary discipline**, including both take homes and suspensions.
- (b) **Investigate** use of exclusionary disciplinary practices inconsistent with legislation, policy and procedure, best practice and international human rights obligations, including:
  - (i) use of exclusionary discipline in response to minor behaviours.
  - (ii) whether exclusionary discipline is used as a last resort.
  - (iii) repeat use of exclusionary discipline, including compliance with obligations to obtain approval from an Education Director for repeat exclusionary practices above statutory thresholds.
  - (iv) use of inappropriate formal and informal exclusionary discipline, including for attracting funding, and implementation of mechanisms to monitor and prevent such practices.
  - (v) the effectiveness of internal processes to enable regular multi-system level (school, region, central) analysis of exclusionary discipline data to support data-based decision making, the identification of system trends, and enable service delivery improvements.

\* *See also Recommendations 9 and 10.*

RECOMMENDATIONS FOR THE SA DEPARTMENT FOR EDUCATION	FINDINGS
<p><b>RECOMMENDATION 15</b></p> <p>That the SA Department for Education:</p> <ul style="list-style-type: none"> <li>(a) Implement rigorous electronic <b>accountability mechanisms</b>, capable of monitoring the required Education Director sign-off and which cannot be overridden, to monitor new statutory thresholds,</li> <li>(b) Implement rigorous electronic <b>accountability mechanisms</b> to quickly identify patterns in take homes and suspensions data, and trigger review of supports and adjustments being provided,</li> <li>(c) <b>Address any perverse incentive</b> (perceived or real) in IESP through revisions to this resource allocation method.</li> </ul> <p>* <i>See also Recommendation 27.</i></p>	5.1, 5.3, 5.4
<p><b>RECOMMENDATION 16</b></p> <p>That the SA Department for Education:</p> <ul style="list-style-type: none"> <li>(a) Adopt key elements of practice critical to successful implementation of a system-wide Multi-Tiered Systems of Support (MTSS) framework (see also</li> </ul>	5.1, 5.2

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Recommendation 3b) designed to improve students' academic, social-emotional and behavioural outcomes, including:

- (i) *Social-emotional learning* to explicitly teach children and young people the prosocial skills of self-efficacy, self-regulation, goal setting, assertiveness and conflict management.
  - (ii) *School-wide Positive Behaviour Interventions and Supports (PBIS)* to ensure evidence-based best practice is in place to prevent and address behavioural incidents, and achieve consistency between classrooms and across schools.
  - (c) Implement similar reforms to Queensland state and Catholic schools to ensure common subjects (e.g., English/Humanities, Science/Maths) are taught by the same teachers (a "core teacher" model) to **limit the number of teachers** that students in Year 7 must navigate in one school day.
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#### RECOMMENDATION 17

5.1

That the SA Department for Education implement robust accountability mechanisms to ensure:

- (a) Effective **implementation of strategies** for reducing and eliminating the over-representation of at-risk students in exclusionary discipline practices.
  - (b) Effective implementation of **behaviour support** policies and procedures.
  - (c) Effective provision of **reasonable adjustments** and appropriately targeted evidence-based support to students with disability
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## 11.6 OVER-REPRESENTATION OF AT-RISK STUDENTS

### Term of Reference:

- *Whether vulnerable or at-risk students are over-represented in suspension, exclusion and expulsion numbers and whether the department is effectively addressing any such issues.*

**Finding 6.1:** Most exclusionary practices are issued to students in "at-risk" or priority equity groups (students with disability, Aboriginal students, students in care, students attending Category 1-3 schools), indicating that more effective strategies urgently need to be put in place to address their over-representation in the use of exclusionary discipline. Students in any of these categories have over three times the risk of other students of being sent home, more than two times the risk of suspension, and more than three times the risk of exclusion, with the degree of increased risk much higher depending on the group in question. Moreover, many students belong to *more than one* of these groups, which increases the likelihood that they will experience exclusionary discipline. The over-representation of these priority equity groups remains significant despite recommendations in inquiries aimed at addressing over-representation issues over the last 10 years, including the Cossey Report (2011), the Nyland Report (2016), and the Select Committee Report (2017). Critically, only one in 10 take homes, suspensions or exclusions are issued to students who do not belong to one of these priority equity groups, meaning that these sanctions are overwhelmingly being used against South Australia's most vulnerable children.

Students with disability, Aboriginal students, students in care, and students from low-socioeconomic backgrounds (especially males) are all over-represented and at significantly higher risk of being sent home, suspended or excluded. Students in these priority equity groups account for *almost all* exclusionary practices, with only 5.2% take homes, 13.9% suspensions, and 12.7% exclusions being issued to students who did not have a disability, who were not Aboriginal, who were not in care, and who were not experiencing relatively high levels of socioeconomic disadvantage (see Figures 8.16, 8.18, and 8.20). We unpack these findings in the following sections.

### 11.6.1 Students with disability

Students with disability are significantly overrepresented and account for the largest proportion of take homes, suspensions and exclusions. We heard from many respondents that students with disability are at higher risk of being subject to exclusionary discipline, and that schools are not implementing effective strategies to support students with disability including use of inclusive practices and appropriate reasonable adjustments, in breach of the CRPD, DDA and the DSE. We frequently heard that student behaviour is not understood in many schools as a function of communication, and disciplinary responses to student behaviour are focused too heavily on enforcing compliance with school rules rather than identifying and responding to individual students' support needs. We also heard that staff felt they are not equipped to support students with disability or are not adhering to behaviour support plans or recommendations provided by a professional or parent/carer. Concerns about the overrepresentation of at-risk students, and the significant short and long-term impacts exclusionary discipline pose to these students (as described in Chapter 4) led a number of respondents to suggest that exclusionary discipline should always be used as a last resort and almost never for students at risk. While this would be aligned with best practice and international human rights obligations, the SA Department for Education's data indicates there currently is not an effective framework in place to support this.

Students with disability were grossly overrepresented in all exclusionary discipline data. In 2019, students counted as receiving an adjustment for disability through NCCD were 5.4 times more likely than students without a disability to be sent home, 3.1 times more likely to be suspended, and 4.9 times more likely to be excluded. These students accounted for a large proportion of exclusionary discipline practices: 69.3% of take homes, 56.6% of suspensions, and 67.4% of exclusions in 2019. Furthermore, the rate of students with disability being sent home, suspended, or excluded rose between 2016 and 2019, at a rate higher than the growth in students counted in NCCD (discussed in Section 8.2). Similar findings were made in relation to students recorded as receiving individually targeted funding through NEP.

Students with disability were also over-represented in data explored in the Case Studies. For example, of the 64 students who received 15 or more take homes in 2019 described in Case Study 2, all (100%) were recorded as having a disability in NCCD. Between them these 64 students averaged 20 take homes each in the 2019 school year. Most concerning is the finding that 15.6% of these 64 students received only supplementary level adjustments, while a further 6.3% were not receiving *any* adjustments beyond those provided within Quality Differentiated Teaching Practice (QDTP). These students were unlikely to be receiving the level of adjustment necessary to prevent take homes, and this finding resonates with the many submissions from parents and carers stating that students were being sent home as a result of behaviours that could have been prevented had appropriate adjustments and effective supports been implemented. This pattern was reflected in other Case Studies.

Case Study 4 looked more closely at the 42 students who received 10 or more suspensions in 2019: 88.1% were recorded as having a disability in NCCD, yet 21.6% were receiving only supplementary adjustments and 5.4% did not receive any adjustments beyond that provided through QDTP. This level of support was clearly insufficient to prevent the types of incidents that resulted in repeat suspensions, although it should be noted that the vast majority of take homes (96.0%) and suspensions (96.3%) in Case Study 2 and Case Study 4 were again for minor reasons that would not even qualify for out-of-school suspension in Chicago Public Schools or the Los Angeles Unified Schools District. In Case Study 5, 73.9% of the 92 students who received more than one exclusion in 2019 were recorded as having a disability in NCCD. This tiny group of students was responsible for almost one in five exclusions in 2019. Our analyses showed that in addition to receiving an average of 2.1 exclusions in 2019, these 92 students *also* experienced an average of 2.0 take homes and 3.7 suspensions. For combined suspensions and exclusions, the accumulated length in days (not including take homes) was 6,706 days across the 92 students working out to an average of 72.9 days per student in the 2019 school year. Of the 197 school days in 2019, these students on average missed over one third (37.0%) of the school year. Astoundingly, while almost three quarters of these students had a disability ( $n=68$ ) and were clearly experiencing significant levels of distress leading to incidents for which they were sent home, suspended and excluded, 30.9% of these 68 students with disability were recorded as receiving only supplementary level adjustments in NCCD. A further 10.3% were not receiving adjustments beyond that provided through QDTP. Adjustments of these levels are minor and clearly insufficient for the students in this group.

In Case Study 6, we conducted a retrospective longitudinal analysis of the exclusionary discipline experiences of 24 of the 92 students who had been excluded more than once in Year 9, 2019. We found that their exclusion trajectories began in primary school with take homes and suspensions, which did not effectively address the behaviour and instead led to further escalation in the use of take homes and suspensions, with resort to the use of exclusions from Year 5. We also found significant increases in the use of take homes, suspensions and exclusions in primary and secondary 'other' education sites, which predominantly include special schools and classes. Between 2010 and 2019, single take homes increased by 57.6% in 'primary other' and by 132.1% in 'secondary other', while repeat take homes increased by 128.2% and 182.5% respectively. Suspensions also rose, with a 1.9% increase in single suspensions and 36.1% increase in repeat suspensions in 'primary other', and 82.1% and 77.2% increases respectively in 'secondary other'. Single exclusions increased by 52.8% in 'secondary other' settings, and although we observed a decrease in exclusions from 2018, this followed a sustained increase from 2016.

Together, these patterns point to the unhealthy prevalence of practices that do not align with the principles of the SA Department for Education's Behaviour Support Policy and obligations under the DDA and DSE, and which are inconsistent with international human rights obligations and best practice described in Chapters 3 and 4.

### 11.6.2 Aboriginal students

The SA Department for Education's data demonstrated Aboriginal students are seriously overrepresented in numbers of take homes, suspensions, and exclusions, with their overrepresentation in suspensions and exclusions increasing since 2010. While Aboriginal students accounted for just 6.6% of enrolments in 2019, they received 21.4% of take homes, 17.6% of suspensions, and 20.3% of exclusions, with the result that Aboriginal students were 3.0 times more likely to receive a suspension in 2019 than non-Aboriginal students (up from



2.5 times more likely in 2010), and 3.6 times more likely to be excluded (up from 3.2 times more likely in 2010).

The data relating to Aboriginal students also demonstrated the intersectional nature of disadvantage, with multiple priority group membership increasing the likelihood of being subject to exclusionary discipline. Importantly, this indicates that there is nothing inherent to suggest that “being Aboriginal” somehow predisposes children to non-compliance or misbehaviour. For example, students who were Aboriginal—but who were not in care and did not have a disability—accounted for just 4% of take homes, and only 5% of suspensions and exclusions in 2019, which (as described in Section 8.7) does not exceed their representation in the total population of SA government school enrolments. In other words, and as shown in Figures 8.16, 8.18 and 8.20, Aboriginal students were more likely to be sent home, suspended or excluded if they had a disability or were also in care (or both). This reflects the compounding impacts of intersecting social disadvantages experienced by Aboriginal communities, as described in Section 4.1.10.

These data indicate existing strategies have not been effective at reducing the overrepresentation of Aboriginal students in take home, suspension and exclusion rates, and indicate a failure to implement effective strategies that align with international human rights obligations under the UNDRIP described in Section 3.1, and best practice for supporting the education of Aboriginal students as described in Section 4.6.10.

We did hear many positive accounts from Aboriginal students and staff that the South Australian Aboriginal Secondary Training Academy (SAASTA) is helping to improve engagement, motivation and achievement of Aboriginal students. SAASTA provides Aboriginal students with access to a unique sporting and educational program in senior secondary schooling (grades 10, 11 and 12). Feedback from stakeholders was unanimous about the positive impacts this program has had in promoting the educational engagement and achievement of Aboriginal students, including many students who had previously been subject to exclusionary practices in earlier schooling years. We heard from a number of students who spoke of the positive influence that engagement in the SAASTA program has had on their engagement at school, keeping them motivated to avoid suspension or exclusion, particularly because of the positive relationships they have developed with other students and education staff through this program.

There was resounding support for expanding the scope of SAASTA, particularly to students in junior secondary, to capture more Aboriginal students at risk of disengagement while their perceptions of school are still malleable. Note that we observed high rates of suspension and exclusion in the early years of secondary schooling (grades 8 and 9), which risk pushing Aboriginal students out of school before they become eligible for the SAASTA program. Perceptively, while Aboriginal students are positive about SAASTA, they were also adamant that it comes too late for students in Years 8 and 9 who might have otherwise been encouraged to remain in school. These students advised that SAASTA should be expanded to include Aboriginal students from Grades 7 to 10 as well. This is especially important given the upcoming transition of Year 7 to the secondary phase of schooling which, if current trends in exclusionary discipline persist, will have a disproportionate impact on Aboriginal students commencing Grade 7 in high school for the first time. A further worthy recommendation by many of the Aboriginal students we met during the course of this Inquiry is that there should be more Aboriginal staff and role models both involved in and running SAASTA.

Expanding the scope of SAASTA would help to promote the engagement and academic achievement of more Aboriginal students, and bring the SA education system into greater alignment with best practice and international human rights obligations by promoting the rights of Aboriginal students through programs run by or in connection with Aboriginal communities.

Finally, in Section 3.5.5, we note a significant oversight in relation to the Aboriginal Education Strategy: 2019 to 2029. The Strategy does not include a goal to reduce Aboriginal overrepresentation in exclusionary discipline. Take homes, suspensions, and exclusions are not mentioned in the document, and not included in the measures and indicators listed on page 23. This is a significant oversight. As we point out in relation to the same absence in national 'Closing the Gap' targets, it makes it an exceptionally difficult task to increase attendance and achievement for Aboriginal students without simultaneously reducing the use of counterproductive exclusionary disciplinary practices that reward truancy and exacerbate achievement gaps. The negative effects of exclusionary discipline are outlined in Section 4.1, its disproportionate impact on Aboriginal students is noted in Sections 4.1.10.2, 8.3 and 8.7.

### 11.6.3 Students in care

Students in care are seriously overrepresented in take homes, suspensions and exclusions, and this has not been addressed despite clear recommendations made in the 2016 Nyland Report. We heard repeatedly from stakeholders who held concerns about the over-representation of students in care in take homes, suspensions and exclusions, that these practices were used without taking into account the trauma some students in care experience, and the impacts of exclusionary practices on these students including impacts on stability and continuity of relationships in kinship and foster care placements. We also heard that the quality of support planning and the implementation of OnePlans for these students was variable, and often not effective at ensuring students in care are supported to remain engaged in an inclusive school environment. These were very similar to findings in the 2016 Nyland Report which made a number of recommendations for the SA Department for Education to improve the quality and effectiveness of supports to these students, including the regular analysis of suspension, exclusion and expulsion data to inform future policy and practice approaches to reduce rates of exclusionary practices for these students.

The SA Department for Education's data, however, does not demonstrate that there has been effective implementation of strategies to reduce rates of exclusionary practices for students in care. These students are overrepresented in take homes, suspensions and exclusions with their overrepresentation increasing in all three over time between 2010 and 2019. In 2019, students in care were 5.8 times more likely than other students to be sent home, which has slightly decreased from 5.9 times more likely in 2010. These students were 4.1 times more likely to be suspended, up from 3.2 times in 2010, and 6.7 times more likely to be excluded representing a 67.3% increase in the number of students in care being excluded between 2010 and 2019.

The data also indicated that while students in care are overrepresented in all exclusionary practices, this overrepresentation is increased by intersecting risk factors – that is, students in care were more likely to be sent home, suspended or excluded if they were also Aboriginal or have a disability (or both). While students in care represented 6.8% of take homes, 5.0% of suspensions and 7.9% of exclusions in 2019, students in care who did not also fall within any other risk category accounted for approximately 1% of take homes, suspensions and exclusions

(as described in Section 8.7). These data demonstrate the impacts of intersectionality on the overrepresentation of students in care in exclusionary discipline.

Patterns in the data also indicate existing strategies have not been effective at reducing the overrepresentation of students in care in take home, suspension and exclusion rates. While the SA Department for Education has implemented several initiatives, such as the Trauma Aware Schools initiative, and has produced a Behaviour Support Policy that strongly aligns with best practice and international human rights obligations, these were only recently implemented and are unlikely to achieve the required culture and practice change without whole-scale, evidence-based systemic reform.

#### 11.6.4 Students from socioeconomically disadvantaged backgrounds

We also found that students are more likely to be sent home, suspended, or excluded if attending a Category 1-3 government school, representing the lowest socio-economic status catchment areas in South Australia. In 2019, students in Category 1-3 schools were 4.0 times more likely to be sent home than their peers, accounting for 64.2% of take homes, although notably this has reduced from 4.7 times more likely in 2010. These students were also 2.9 times more likely to be suspended (representing 56.3% of all suspensions), and 3.1 times more likely to be excluded (representing 58.6% of all exclusions). These data indicate that students in low socio-economic regions are more likely to be subject to exclusionary discipline, and existing strategies for addressing higher rates of disadvantage in these regions have not been effective. The overarching and individual recommendations we have made in relation to other findings are relevant here.

RECOMMENDATIONS FOR THE SA DEPARTMENT FOR EDUCATION	FINDINGS
<p><b>RECOMMENDATION 18</b></p> <p>That the SA Department for Education:</p> <ul style="list-style-type: none"> <li>(a) Ensure that the system-wide Multi-Tiered Systems of Support (MTSS) framework suggested in Recommendation 3b is established on the <b>foundations of:</b> <ul style="list-style-type: none"> <li>(i) <i>inclusive education</i>, enacted through accessible pedagogies informed by the principles of Universal Design for Learning (UDL), evidence-based tiered academic, social-emotional and behavioural supports together with valid progress measures, and reasonable adjustments to address the pedagogical, attitudinal, and environmental barriers that prevent students with disability from accessing and participating in education on the same basis as students without disability, and</li> <li>(ii) <i>culturally appropriate practice</i>, which promotes respect for Aboriginal peoples and cultures, and takes a strengths-based approach to Aboriginal education.</li> </ul> </li> <li>(b) Incorporates <b>systematic and evidence-based</b> approaches to:           <ul style="list-style-type: none"> <li>(i) <i>social-emotional learning</i> to explicitly teach children and young people the prosocial skills of self-efficacy, self-regulation, goal setting, assertiveness and conflict management,</li> <li>(ii) <i>trauma-informed practice</i>, which is carefully implemented to avoid the over-withdrawal of students into sensory or reflection rooms or other strategies that may reinforce unhelpful behaviours.</li> </ul> </li> <li>(c) Revise the Department for Education’s <i>Aboriginal Education Strategy: 2019 to 2029</i> to acknowledge the disproportionate negative impacts of</li> </ul>	<p>6.1</p>

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exclusionary discipline on Aboriginal students and include explicit strategies and targets/indicators to monitor and eliminate their overrepresentation in take homes and suspensions within the revised strategy.

- (d) Expand SAASTA to incorporate Years 7 to 10 and **employ more Aboriginal staff**, including former SAASTA graduates, to develop and lead the program for the benefit of more Aboriginal young people and their communities.
  - (e) Ensures **additional safeguards** are in place for priority equity groups (e.g., students with disability, Aboriginal students and students in care) such as school-based case management processes and professional collaboration between classroom teachers, specialist teachers, allied health professionals and Aboriginal Education staff to design, implement and review student support and adjustments.
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## 11.7 BEHAVIOUR SUPPORT POLICIES AND STUDENT SUPPORT SERVICES

### Term of Reference:

- *The effectiveness of behaviour support policies and student support services.*

**Finding 7.1:** the SA Department for Education’s Behaviour Support Policy promotes practice that is aligned with international human rights obligations, best practice, and obligations under the DDA and DSE, however there remain opportunities to further strengthen the Behaviour Support Policy, as well as other elements of the SA Department for Education’s legislative and policy framework, to ensure the right to *inclusive* education is explicitly recognised and promoted, obligations under the DDA and DSE are clearly articulated and supported by explicit guidance regarding implementation of reasonable adjustments, and exclusionary discipline practices are used only as a last resort.

All children and young people, including students with disability, have the right to an *inclusive* education that ensures they are able to participate at their local school on the same basis as their peers, in a safe and nurturing environment. The child’s right to education is explicitly recognised in section 7 of the *Education and Children’s Services Act 2019* (SA), and is stated within international human rights treaties, including Article 28 of the CRC. Article 28.2 further states “States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child’s human dignity” (p. 8). For children with disability, Article 24 of the Convention on the Rights of Persons with Disabilities (CRPD; United Nations, 2008), and General Comment No. 4 on Article 24 (United Nations, 2016) provide the right to an inclusive education, defined 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 of the relevant age range with an equitable and participatory learning experience and the environment that best corresponds to their requirements and preferences. (*United Nations, 2008, paragraph 11*).

These principles promote the social model of disability, where the focus is on adjusting education structures, environments, and teaching practices, and providing responsive, proactive approaches to education and support systems. The DDA and DSE are also

underpinned by the social model and a focus on equity, proactive approaches, and students as partners in the learning process.

The SA Department for Education's Behaviour Support Policy states that its purpose is to: (i) ensure effective, consistent and fair behaviour support for children and young people from early childhood to secondary school, (ii) to ensure students are safely included and participate in learning in a positive way, and (iii) to develop the personal and social capability of children and young people to understand and exercise their rights and responsibilities so that they can fully contribute in their learning environments, and to their wider community.

Critically, the Behaviour Support Policy is underpinned by principles that "reflect the department's goal of *safe inclusion* for all children" (p. 2, Government of South Australia, 2020, emphasis added). These principles acknowledge behaviour as a form of communication, the contextual nature of behaviour, the fact that behaviour is learnt over time and the commitment to supporting students to continue to learn and practice positive behaviour, and the importance of a team approach. Finally, the seven core functions of behaviour support that are described in the policy emphasise the inclusive, positive, collaborative approach that Department staff are to uphold. These functions acknowledge the need for environmental factors to be considered and adjusted for, the importance of teaching positive behaviour and behavioural expectations, the role of redirection, provision of visible, fair and equitable behavioural responses that foster trust, restorative practices, and a focus on maintaining wellbeing and safety for all stakeholders.

The SA Department for Education's Behaviour Support Policy (SA Department for Education, 2020) also acknowledges the power of positive relationships between students and caring adults, as "the fundamental basis of all behaviour support" (p. 2). By clearly stating the importance of adults modelling positive, inclusive and respectful behaviour, and supporting students to learn these behaviours, the SA Department for Education is demonstrating powerful stewardship in fostering positive relationships for students in at-risk groups.

The aims and principles of the Behaviour Support Policy reflect the obligations set out in the CRC (United Nations, 1989), the CRPD (United Nations, 2016), the DDA (Australian Government [Department of Education, Skills and Employment], 2012) and the DSE (Australian Government [Federal Register of Legislation], 2018), which aim to uphold students' right to access education that is inclusive, safe and effective. When school-based behaviour support practices adhere to the Behaviour Support Policy, school leaders and educators are upholding their obligations as situated in the aforementioned international conventions and Australian legislation. The current Behaviour Support Policy provides a strong foundation for what will need to be a significant shift in the SA Department for Education's policy and practice framework to ensure students' rights to education are upheld in alignment with international human rights obligations and best practice.

Future legislative and policy reviews should be built around a framework that aligns with the principles underpinning the Behaviour Support Policy. Some progress has already been made in this regard, in that the purpose and principles underpinning the Behaviour Support Policy are now also reflected in the SEE Procedures following a recent update coinciding with the new *Education and Children's Services Act 2019* (SA) and Regulations. *However there remains room for improvement.* The SEE Procedures require suspensions, exclusions, and expulsions to meet only *one* of the seven core functions, and state that they *should*, not *must*, be used as a last resort. We also observed other issues earlier in this chapter, for example the SEE

Procedures do not uphold students' rights to continued education during suspensions. Other policies, such as the Children and Students with Disability Policy, while setting out obligations to ensure inclusive education consistent with the DDA and DSE, do not clearly and explicitly define inclusive education consistent with, and with explicit reference to the CRPD and General Comment No. 4, as described in Chapter 3. Similarly, the 'Specialised Education Options for Children and Students with Disability Placement Procedure' (2019) provide for the segregation of students with disability in special classes, units and schools, which is incompatible with inclusive education under international human rights instruments. Finally, the Behaviour Support Policy does not make explicit educators' obligations to consult students with disability, to provide reasonable adjustments, or eliminate bullying and harassment, as per the *Disability Standards for Education 2005* (Cth), and we note that this omission in Queensland's Student Discipline Procedure was criticised in Hearing 7 of the Disability Royal Commission. To ensure alignment with international human rights obligations, Australian legislation and best practice, the policy needs to provide a robust and explicit commitment to inclusive education as defined by General Comment No. 4 on Article 24: The Right to Education. So too should the *Education and Children's Services Act 2019* (SA) and Regulations, which refer only to the right to education without providing guidance as to the form that education should take. Educators' obligations under the DSE should also be made explicit. In sum, while the Behaviour Support Policy has brought the SA Department for Education's policy framework into greater alignment with international human rights obligations and best practice, there remain opportunities for strengthening this alignment through amendments to other elements of the current legislative and policy framework.

**Finding 7.2:** While the Behaviour Support Policy encourages best practice, SA government schools continue to employ practices that are in breach of international human rights obligations, best practice, and obligations under the DDA and DSE, as well as the SA Department for Education's own policies and procedures. There is need for significant improvement in the implementation of inclusive practices, including the provision of clear guidance and strategies to support schools to effectively implement such supports, supported by a system-wide framework that unifies behaviour support and inclusive practices across SA government schools.

We heard from many stakeholders that schools continue to resort to exclusionary practices without exploring other means of supporting students to remain in school. Many stakeholders expressed frustration that many students progress through the education system without the requisite support to achieve social and academic goals due to repeat take homes, suspensions or exclusions contributing to avoidance behaviours, anxiety, low self-esteem and ultimately future behavioural issues. Some stakeholders referred to this as a 'self-perpetuating cycle' in which schools' failure to implement effective behaviour supports and over-reliance on exclusionary practices reinforce and entrench the behaviours these strategies are meant to address.

Many respondents including students, parents and teaching staff commented that the trajectory towards exclusionary disciplinary depends largely on the presence (or rather absence) of positive, caring and respectful relationships between students and teaching staff, and staff modelling appropriate and respectful behaviours. While this view was widely held, there remained widespread concern that existing practices in many schools do not recognise these connections, and that some schools continue to take an approach to behaviour management

from a point of view that promotes the interests of school staff rather than being centred on the interests and outcomes of students.

As noted in Chapter 5, there were deeply concerning views expressed by some education staff that children who disrupt the learning of others were not worthy of additional resourcing, and that students with behavioural difficulties, particularly those with disability, should not attend mainstream schools, suggesting that some teachers are not aware of or committed to implementing the Department's *Behaviour Support Policy*. This further suggests that some staff are unaware that behaviour has a purpose which they have responsibility to manage both proactively and productively using evidence-based inclusive practices.

We also observed in Chapter 5 that more than half of parent and carer respondents reported that appropriate reasonable adjustments had not been consistently provided, despite those parents and carers considering that such adjustments would be beneficial in addressing the behaviours that were dealt with using take homes, suspensions or exclusions. A further 16.9% of parents and carers were unsure whether appropriate adjustments were being implemented. Failures to provide reasonable adjustments, and to consult with students with disability and their parents or carers in the design of reasonable adjustments, are breaches of educators' obligations under the DSE.

In summary, we observed widespread concerns that effective behaviour supports and adjustments are not routinely provided to support students at school, suggesting there is need for significant improvement in inclusive practice and strategies for providing appropriate behaviour supports, and in the provision of support and guidance to enable education staff to effectively implement these supports.

**Finding 7.3:** while the new OnePlan procedures promote a more unified, student-centred approach to planning of individualised learning and behaviour supports, there remain significant concerns that they are not being effectively implemented and are not contributing to significant improvements in practice.

We described in Section 3.5 the SA Department for Education's recent move to implement more unified personalised learning plans called OnePlans, bringing together a number of similar planning processes for students in care (Individualised Education Plan), students with disability (Negotiated Education Plan), and Aboriginal students (Individual Learning Plan). We heard from a number of respondents that while this shift has been positive in theory, the quality and consistency of implementation of the OnePlan process still seems quite variable between schools. Some respondents noted that the OnePlan process is implemented in a piecemeal fashion, rarely leading to significant improvement in practice in terms of implementation of effective behaviour supports that prevent escalation to take homes, suspensions or exclusions. We heard concerns that the OnePlan process may be completed by some schools as a 'tick a box' procedure, in that schools conduct the planning process involving collaborative planning for student supports using a team around the child approach, however the implementation of the OnePlan, and tracking between OnePlans often does not happen in a truly meaningful way that supports the inclusion of vulnerable students. We heard that this may not necessarily be a result of lack of interest or willingness, but rather a lack of effective supports or strategies to effectively implement OnePlans. Such practices are inconsistent with the Department's own policy regarding the purpose of the OnePlan process and represent missed opportunities to implement practice that aligns with international human rights obligations and best practice.

**Finding 7.4:** while some schools continue to experience difficulties navigating the new IESP funding model for students with disability, the model is founded on principles that should promote more effective implementation of adjustments for students with disabilities as the model continues to mature. However, there remain concerns regarding misuse of individualised funding which may not be effectively monitored to ensure compliance with departmental policy and procedures.

The SA Department for Education's new Inclusive Education Support Program (IESP), establishing a functional needs-based funding model for students with disability, has brought the Department's model for funding student supports into greater alignment with the DDA and NCCD. Stakeholder attitudes toward the new model were generally positive in that it represents a significant improvement to the way student supports are funded. However, many education staff expressed concern about the practical implications of the new model. In particular, we heard many concerns regarding the administrative burden the new process is placing on schools, due to the quantity and intensity of work required to complete an application. Some suggested that it would typically cost a school an estimated \$1,000 in school resources to commit time to developing the plans and completing the application for funding for the student, drawing teachers away from teaching and adding pressure on staff, reducing time available for professional development. Some also suggested that this may result in some schools not submitting applications, ultimately to the detriment of students with disability.

While these concerns are significant, it is noted that this new model remains in its infancy and for some schools the transition to this new procedure will take time, dependent on the quality of processes and student information (for example, evidence and information regarding a student's support and learning needs) that existed within individual schools prior to the shift to this new model. This may also be dependent on the extent to which schools are effectively employing (and documenting) Universal Design for Learning principles and accessible pedagogies which, if implemented, may prevent the need to apply for IESP for students whose needs are not currently being served. We also heard of positive implications of the new model, including that parents and carers are to be routinely included in the planning process, and be notified when an application is made, and an outcome is provided. It was unclear, however, whether there are sufficient mechanisms in place to ensure students are consulted in the identification and design of effective and appropriate reasonable adjustments, as per the DSE and this is an area that may need tightening. The new model also provides more effective review and monitoring mechanisms, including regular timeframes for review to ensure funding is being used effectively and adjustments are being implemented with positive results for individual students.

Positively, we heard that the new IESP process will help to shift away from the provision of funding to provide supervision by SSOs, towards more effective adjustments and more meaningful student supports. Similar to the new OnePlan process, this new funding model represents an opportunity to support inclusive practices that align with international human rights obligations and best practice, provided the necessary culture shift and up-skilling of staff to support effective implementation is also properly supported. Given the infancy of the new process, it is not yet clear whether the new IESP model has had a significant impact on improving student supports and implementation of effective adjustments for students with disability. We did hear, however, that IESP funds are being misappropriated. Most school leaders were unable to explain how IESP funds were used when students were issued a suspension or exclusion, although some did admit that the SSO would simply continue being




deployed as a general resource while the student was absent. Some school leaders complained that when a student with disability transferred to their school from another school, their IESP funding often did not come with them as the previous school would say the funding had already been expended to employ an SSO, who was not transferable, even though IESP funds are meant to follow the child. Similarly, we heard that IESP funding for students with a disability was being kept in mainstream and used to “pad out” leadership positions, even after these students had been diverted to FLO with the result being that FLO coordinators could not use that funding to support students with a disability, many of whom stopped attending school altogether (see Section 5.10.2).

Further, even though IESP funds can be used in range of ways, including to reduce class sizes, employ additional teachers, provide teachers with release from face to face teaching to undertake professional learning or to support others in case management, as well as appointing an SSO, we typically only heard it being used to support the latter. There were some notable exceptions, however. We frequently heard from education staff that many schools, particularly regional and remote schools struggle to access relevant expertise to assist in the assessment and identification of individual learning and support needs. This is not a new concern and has been identified in previous inquiries in South Australia. As noted above, we also heard that some schools hold onto this funding after a student has left the school, and may use it for other purposes such as to support other programs in mainstream schooling. We also heard some respondents speak of using IESP funding to employ a psychologist to complete IESP assessments and applications for other students, in addition to providing counselling more broadly. These responses suggest some schools continue to breach policy and procedure by using individual student funding for purposes other than to benefit the student, and that there are gaps in frameworks for monitoring compliance in the use of individualised funding which should be reviewed. This has long been a complaint of parents of students with a disability, one that has been noted in multiple inquiries, reviews and audits of education for students with disability nationally, including in South Australia. It has been raised by witnesses in hearings of the current Royal Commission into the Violence, Abuse, Neglect and Exploitation of People with Disability.

**Finding 7.5:** While the SA Department for Education has invested in staff professional development such as SMART (Strategies for Managing Abuse Related Trauma) training and Berry Street training, professional development for staff is inconsistent across the state, and there is no unifying framework to guide and commit schools to investing in professional development that is targeted at supporting implementation of effective and inclusive behaviour supports for all students. Similarly, programs and strategies for behaviour support are not consistently and cohesively implemented in SA government schools, as there is no unifying, system-wide framework for supporting schools to implement strategies for promoting and explicitly teaching positive behaviours, student connectedness and student-teacher relationships.

As discussed in Chapter 5, the need for more structured and consistent investment in professional development of education staff was a recurring theme in feedback to the Inquiry. Respondents spoke of a need to build a collective understanding of inclusion and the value of inclusive practices, and to provide education staff with the skills and strategies to more effectively implement inclusive practices, adjustments and interventions to prevent escalation. In addition to focusing teacher education on the fundamentals of inclusive education, many respondents commented that there is a need to focus more on explicitly teaching behaviour




expectations, building meaningful student-teacher relationships or partnerships in learning, and teacher modelling of appropriate and respectful behaviour. There were also calls from a range of education staff for increased teacher training on a wide range of topics including how to provide adjustments. Additionally, training needs were identified in supporting staff to better understand and respond to childhood trauma, mental health, poverty, gender dysphoria, how neglect affects children's development, how to promote self-regulation and de-escalation, and promoting equitable access to the curriculum and opportunity for all students.

Some also felt that initial teacher education in these areas needed to be strengthened and commented on the variability of consultancy services in delivering quality professional learning. Additionally, some argued that training in legislation, policies and procedures should be mandated every three years. There was a call for regulated learning developed by or for the Department that ensured consistent messages were available to all teachers across the State. Some resources already exist and are available to the Department to support professional development around fundamental concepts of inclusive education, including free online learning in relation to the DSE and NCCD.

Overwhelmingly, education staff reported that while investment in training such as SMART training and Berry Street has been positive, there remains a lack of consistency and focus in the provision of professional development opportunities for staff, resulting in a piecemeal implementation of training across and within regions. We repeatedly heard that there has been a lack of structured and purposeful guidance from the SA Department for Education around professional development, resulting in schools determining themselves what training to pursue, engaging different providers with varying qualities of training, and delivering training that may not be cohesive with broader strategic goals. The absence of a clear professional learning and development framework, built around a unifying framework for supporting the implementation of genuine inclusive practices and effective behaviour supports, means that schools are left to 'choose their own adventure' resulting in inconsistent learning and practices between schools and regions. The implementation of a more cohesive and structured learning and development framework would support access to education and training aimed at building competencies to implement inclusive learning environments, consistent with international human rights obligations described in Chapter 3 and best practice described in Chapter 4.

We heard similar feedback regarding the implementation of strategies or programs that are intended to support schools' management of student behaviours. For example, we heard from some education staff who spoke of the value of implementing Positive Behaviour for Learning into school practices, however many education staff consulted had not previously heard of this model. We heard that interoception practices have been implemented in some schools which focuses on supporting students with disabilities, however its implementation varies across schools and regions, and fails to provide strategies for explicit teaching of self-regulation for all students. It is also concerning that interoception has been implemented despite having a limited evidence base and were concerned to see students spending a lot of time outside classrooms, playing with toys in the principal's office or in sensory rooms. These activities can work to reinforce behaviours that led to children being taken out of class and, if used indiscriminately and without extreme care, will contribute to keeping them out of class with corresponding negative effects on their social, behavioural and academic outcomes. Many respondents spoke of the value of trauma awareness training, and the recent strong push to engage in this training which has supported understanding of basic concepts including impacts of trauma on the developing brain and how to adapt this training into more effective responses



to student behaviour. However, it was also noted that there is no whole-of-system approach to ensuring teacher practice is trauma-informed, and that engagement in training is consistent across school sites. Further still, we observed that while trauma-awareness is critical to teacher practice, this does not provide the fundamental knowledge to support engagement with all students, as not all student behaviours occur within the context of a trauma background.

There is a real danger that educators develop a simplistic understanding and fail to recognise the difference between trauma and disability. We did come across some evidence that SA Department for Education policy officers in the disability space are aware of this and that the Ministerial Advisory Committee: Children and Students with Disability has or is conducting a project on the difference between trauma and disability. This is important work, yet we could find no further information than a brief mention of the project on the SA Department for Education website. Whilst they reflect positive attempts by the SA Department for Education to better support students with disability and prior experiences of trauma, the partial incorporation of interoception and Trauma Informed Practice are emblematic of what many respondents referred to as a “piecemeal approach to behaviour management” across South Australian government schools, which is characterised by an absence of a clear, unifying framework to bring together a cohesive collection of strategies for supporting student behaviour in government schools. Stakeholders observed that the SA Department for Education has implemented a system-wide strategic framework that provides schools with explicit guidance regarding strategies for improving targets around academic achievement, particularly literacy and numeracy skills, however there is no corresponding framework that supports schools to collectively and consistently implement effective strategies for supporting and explicitly teaching positive behaviours. Moreover, we heard that school leaders have been told by Senior Executive that they cannot include student wellbeing in their School Improvement Program or “SIP” goals. The empirical evidence reviewed in Chapter 4, however, shows that academic achievement is inextricably linked to students’ engagement and wellbeing, as is their behaviour. All three are indivisible, and when supported they work to both promote and protect positive student outcomes.

Overwhelmingly there was a sense by education staff that most schools are doing what they can with the knowledge, skills and resources they have, but that to achieve better outcomes there needs to be more explicit guidance and support regarding the implementation of strategies for promoting positive student behaviour, in combination with strategies to support student learning and wellbeing, including a focus on building educators’ knowledge and skills. A Multi-Tiered Systems of Support (MTSS) framework, discussed in Chapter 4, which builds on the concept of tiered responses and data-based decision-making first used in the in Response To Intervention (RTI) and Positive Behaviour Interventions and Supports (PBIS) frameworks, would help to bring together the data, systems and practices to improve implementation of behaviour supports, promote positive student-teacher relationships and student connectedness, enhance the accessibility and quality of teaching, and improve student outcomes in South Australian government schools, ultimately promoting the achievement of a world-class education system that aligns with best practice and international human rights obligations.

RECOMMENDATIONS FOR THE SOUTH AUSTRALIAN GOVERNMENT	FINDINGS
<p><b>RECOMMENDATION 19</b></p> <p>That the South Australian government amend the <i>Education and Children’s Services Act 2019</i> (SA) to include:</p> <ul style="list-style-type: none"> <li>(a) As an object of the Act that every child is supported to enjoy the <b><i>right to an inclusive education</i></b>.</li> <li>(b) The requirement that any form of exclusionary discipline may only be used <b>as a last resort</b>, and <b><i>only for serious behaviours to be described in the Act</i></b>.</li> </ul>	7.1
RECOMMENDATIONS FOR THE SA DEPARTMENT FOR EDUCATION	FINDINGS
<p><b>RECOMMENDATION 20</b></p> <p>That the SA Department for Education <b>revise the SEE Procedures</b> to:</p> <ul style="list-style-type: none"> <li>(a) Ensure they explicitly recognise and require decisions to be made in a way that <b><i>promotes and protects every student’s right</i></b> to inclusive education.</li> <li>(b) Include a clear <b><i>definition of ‘inclusive education’</i></b> that draws from international human rights instruments.</li> <li>(c) Require that exclusionary discipline <b><i>must</i></b> only be used as a last resort, and only after evidence-based educative responses have been exhausted including provision of reasonable adjustments, restorative practices, trauma-informed practices, culturally appropriate practice, and skill-building in-school suspension.</li> <li>(d) Require that exclusionary discipline must be used in a targeted way to meet <b><i>all</i></b> of the seven core functions of the Behaviour Support Policy.</li> </ul>	7.1
<p><b>RECOMMENDATION 21</b></p> <p>That the SA Department for Education:</p> <ul style="list-style-type: none"> <li>(a) Revise the Behaviour Support Policy to make explicit reference to <b><i>educators’ obligations</i></b> under the <i>Disability Standards for Education 2005</i>, including: <ul style="list-style-type: none"> <li>(i) consulting students with disability in the identification, design and implementation of reasonable adjustments,</li> <li>(ii) ensuring the provision of appropriate reasonable adjustments, and monitoring their effectiveness,</li> <li>(iii) eliminating bullying and harassment of students with disabilities.</li> </ul> </li> <li>(b) <b><i>Implement high-level training</i></b> for all Support Services staff in Multi-Tiered Systems of Support (MTSS), social-emotional learning (SEL), restorative and trauma-informed practice, Functional Behaviour Assessment (FBA), and Positive Behaviour Intervention and Supports (PBIS).</li> <li>(c) Enable these staff to monitor, promote and support the use of these practices across SA government schools through a <b><i>coaching model</i></b> with expansion of behaviour support staff numbers as necessary to achieve implementation and practice fidelity,</li> <li>(d) Monitor <b><i>implementation and practice fidelity</i></b> through the use of recognised PBIS measures, regular data collection cycles and analysis.</li> </ul>	7.1, 7.2
* See also Recommendations 3(b) and 8.	

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**RECOMMENDATION 22**

7.3, 7.4

That the SA Department for Education:

- (a) Investigate and **revise the OnePlan process** with a view to simplifying and streamlining the process, ensuring that valuable school staff time is preserved to facilitate effective implementation,
- (b) Revise the Inclusive Education Support Program (IESP) process to **reduce application burden** on school staff,
- (c) Develop **rigorous accountability mechanisms**, such as parent agreement and sign-off, to ensure that resourcing (e.g., IESP funding and SSO deployment) is effectively utilised to:
  - (i) Support student learning, engagement and behavioural outcomes using evidence-based practice, upskilling classroom teachers and providing them with time to collaboratively plan, consult students, design and implement adjustments, partner with parents and carers, and gain the advice and support of allied health professionals such as speech pathologists, occupational therapists and school counsellors,
  - (ii) Maintain student connectedness during a disciplinary absence, and that it always transfers with the student and cannot be used for other staffing or for students other than those for whom the funding was sought.

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**RECOMMENDATION 23**

7.5

That the SA Department for Education:

- (a) Require all SA Department for Education and school staff to engage in **high quality, accredited professional learning** to:
  - (i) learn the fundamental concepts of genuine inclusive education and educators' obligations to consult students and provide reasonable adjustments, as well as eliminate harassment and victimisation of students with disability.
    - ✓ Note that there is **free** introductory PD relating to inclusive education available online at: <https://www.futurelearn.com/courses/inclusive-education>
  - (ii) to acquit their obligations under the Disability Standards for Education (DSE) as outlined in and the Disability Standards for Education (DSE).
    - ✓ Note that there is **free** PD relating to educators' obligations as per the DSE available online at: <https://www.nccd.edu.au/resources-and-tools/professional-learning/format/e-learning-5>
  - (iii) enable them to more accurately interpret students' presenting characteristics in order to identify and provide relevant and effective reasonable adjustments, irrespective of whether a student has an identified disability or is in receipt of individually targeted funding, to ensure educators meet their obligations under the DSE;
  - (iv) learn about the impacts of childhood complex trauma and the fundamentals of trauma-informed practice.
    - ✓ Note that there is **free** introductory PD on trauma-informed practice available online at: <https://www.futurelearn.com/courses/teaching-students-trauma>
  - (ii) engage in culturally appropriate practice, eliminate both direct and indirect racism, and promote respect for Aboriginal children and young people.
    - ✓ Note that the ABC recently collaborated with Archie Roach to produce **free** resources relating to Aboriginal history education, including considerations for cultural safety in the classroom, available online at: <https://education.abc.net.au/home#!/topic/3717751/archie-roach>
  - (v) support the system-wide implementation of Positive Behaviour Intervention Supports (PBIS) as one element within a multidimensional Multi-Tiered System of Support.

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- (b) Encourage and support South Australian public educators to engage in **professional learning communities**, such as Quality Teaching Rounds (Gore et al., 2017), where educators collaborate in cycles of professional learning, engage in professional dialogue, observe each other's classrooms and provide supportive peer feedback focusing on areas of practice and elements that are critical to the successful implementation of a Multi-Tiered Systems of Support (MTSS) framework; e.g., universal design, restorative practice, PBIS.
- (c) **Provide school communities with guidance** in the implementation of Multi-Tiered Systems of Support (MTSS) framework by identifying and celebrating examples of high-quality practice in SA government schools. Consider replacing awards that celebrate individuals (e.g., 'Primary teacher of the Year') with awards that drive collaboration and excellence in the elements of practice critical for success, such as programs and initiatives that:
- (i) enhance student voice, involvement in decision-making, and/or engagement and wellbeing,
  - (ii) lead to measurable reductions in the use of exclusionary discipline with attention to the impact on school connectedness and student outcomes,
  - (iii) embed the foundations of quality inclusive practice, culturally appropriate practice, and trauma-informed practice,
  - (iv) explicitly teach self-regulation through social-emotional learning.
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## 11.8 DISENGAGEMENT FROM EDUCATION: PART-TIME & FLEXIBLE OPTIONS

### Term of Reference:

- *The number of children of compulsory school age who have been disengaged from education, including through modified or other enrolment or different options, including home schooling. This should specifically consider the use of 'take homes', part-time programs, exemptions, home-schooling, and Open Access.*

As we note in Chapter 10, students enrolled in these options are not necessarily 'at risk' and are not necessarily disengaged from education. However, as indicated by respondents to the Inquiry consultation and submission process, these options can be used to "offload" students that some schools find difficult to teach. In the following sections, we look at the percentage of students in the designated 'risk' groups, noting that we conceptualise risk not in terms of students but in terms of those students being disproportionately subjected to particular practices.

**Finding 8.1:** While SA Department for Education data indicates part-time arrangements have dropped by 23.7% since 2015, evidence from stakeholder consultation indicates they continue to be used informally without being recorded and reported, are used for inappropriate reasons inconsistent with current policy, and are not effectively monitored to ensure compliance. This is particularly the case for students with a disability.

The SA Department for Education's data described in Section 9.1 indicates that in 2019, 1,552 students were on part-time programs in South Australian government schools. In 2018, almost one in five students receiving adjustments for disability under NCCD were enrolled part-time, which declined to one in ten in 2019. Similarly, the number of Aboriginal students on part-time

programs dropped from 2.3% in 2010 to 1.3% in 2019. The data indicates that only a very small number of students living in care are represented in the data.

However, these data should be treated with caution as many stakeholders, including education staff, observed that part-time attendance arrangements are not always formalised and recorded. Stakeholders recounted instances where students had been placed on a part-time program without relevant paperwork being completed, arrangements being made ‘unofficially’ by teachers or on a ‘wink and a nod’ basis, and students starting part-time programs without a plan to gradually increase attendance to full-time resulting in some students with disability remaining on a permanent path of part-time attendance. We also observed some education staff speak about part-time arrangements being used for inappropriate reasons, including to manage students that are “disruptive and violence and can’t cope with mainstream schooling” when “special school is not an option”, which revealed concerns about the level of understanding of students’ rights to inclusive education and teacher obligations under the DDA and DSE including the provision of reasonable adjustments, and practice not being aligned with international human rights obligations described in Chapter 3 and best practice described in Chapter 4.

The Department for Education’s policy in relation to part-time arrangements, described in Section 3.5.3, notes that part-time attendance arrangements are “not a process to legitimise non-attendance or truancy, and is only approved for genuine reasons which prevent full-time attendance, and only then with supporting evidence”. However, we received evidence that practice is not always compliant with existing policy, and there are not effective monitoring mechanisms currently in place to ensure compliance within SA government schools.

**Finding 8.2:** Students with a verified disability (e.g., those receiving IESP) and Aboriginal students receive the largest proportion of exemptions, however limitations to data including reasons for exemptions restrict detailed analysis of the appropriateness of their use.

As described in Section 9.2, the SA Department for Education’s data shows that 15,154 students were listed as receiving an exemption in 2019. Students with disability (NEP/IESP) were most over-represented in exemption numbers, with 9.2% receiving an exemption in 2019, followed by Aboriginal students with 3.6% receiving an exemption in the same year. We were unable to acquire data disaggregated by type of exemption, limiting any analysis of the reasons for which exemptions were granted, which could include for example medical or health reasons, home education, full-time employment, and disability or behaviour concerns. We also received no data for students living in care or receiving an adjustment in NCCD, which is notable in light of their overrepresentation in other data. These limitations to exemption data restrict any analysis as to the nature and appropriateness of exemptions in SA government schools.

**Finding 8.3:** Students with disability represented more than one third of enrolments in Open Access College in 2019, as well as students registered as being home-schooled (29.0% in 2019), which suggest failure to properly support these students within mainstream schools.

In Section 9.3 we analyse data in relation to the number of enrolments in Open Access College (OAC). Data received from the SA Department for Education indicates that of the 4,911 students enrolled in OAC in 2019, more than one third of OAC’s students were counted as receiving an adjustment on the basis of disability under NCCD. Aboriginal students accounted for 4.9% of

OAC students and students living in care represented 1.0%. We also observed that the proportion of students with disability enrolled in OAC may be higher in particular regions, for example in their 2019 annual report the OAC is stated as catering for more than 60% of students with verified disabilities in the Central East Partnership. We also found a high representation of students with 'special needs' (indicating diagnosed disability, but may also reflect undiagnosed learning difficulties) registered as being home-schooled, with a steep increase over the past eight years and almost a third of all students registered as home-schooled in 2019. These data suggest that a significant number of students with disability are enrolled in alternative learning through OAC rather than in an inclusive education environment within mainstream SA government schools. While the data does not indicate reasons for students' enrolment in OAC, observations from parents and carers suggest a significant proportion of students with disability have enrolled in OAC due to not being adequately supported to remain in inclusive mainstream schooling, suggesting lack of support and implementation of adequate reasonable adjustments in SA government schools and practices that do not align with international human rights obligations described in Section 3.2, obligations under Commonwealth legislation including the DDA and DSE as described in Section 3.3, and best practice described in Chapter 4.

Although recognising that participation in part-time enrolments, exemptions and Open Access College does not necessarily reflect or indicate disengagement, students in priority equity groups are nonetheless overrepresented in these enrolments, relative to their representation in total enrolments. It is also not clear who chooses these options or whether part-time enrolment, exemption or OAC is a choice for some, but a forced choice for others. Further research on the effectiveness of the wide array of alternative options in the South Australian government school sector is needed, especially in relation to whether some or all of these options feature in early school leaving trajectories.

**Finding 8.4:** While enrolments in FLO have fallen by 13.1% since 2016, when primary school aged children were moved out of FLO, Aboriginal students and students with disability continue to be overrepresented in FLO enrolments (accounting for 16.7% and 19.0% in 2019, respectively), current FLO models appear to be compounding student segregation and disengagement, and there is a lack of adequate oversight and monitoring of the quality of these programs particularly around the use of funding, student attendance, retention, achievement and school completion.

We observed that while some stakeholders felt that some Flexible Learning Options (FLOs) and other satellite sites like behaviour centres may provide benefit to some students through more explicit and scaffolded instruction to support students to achieve behavioural and learning goals, the quality of these programs varies significantly. We heard serious concerns regarding the quality of FLO offerings. We heard that students typically fall further behind academically when attending FLO, and students are not effectively supported to transition back into mainstream schools. We heard that attendance rates at FLOs are often very low, funding is used to provide case management that may offer as little support as an attempted phone call each week, and that FLOs are used as an avenue for removing 'difficult' students from mainstream classrooms. In Section 3.5.2 we observed that the *Education and Children's Services Act 2019* (SA) imposes tough penalties on parents and carers who fail to ensure a child attends a school or learning program, however the *Education and Children's Services Act 2019* (SA) does not hold the SA Department for Education to the same standard, and evidence received through this inquiry indicates that the SA Department for Education is failing to meet



a similar standard by failing to ensure students enrolled in FLO are supported to remain engaged in learning. We heard from some stakeholders that FLO programs provide an avenue for schools to cosmetically improve performance, attendance, and retention data by removing these students from the mainstream data cohort. Some stakeholders, including school leaders, expressed concerns that schools overuse FLOs for Aboriginal students, as well as students with disability, despite these settings not being equipped to support students with complex learning profiles.

We found that enrolments in FLO increased exponentially between 2010 and 2012, with further peaks in 2012 and 2016. We also found what looks to be an inverse relationship between FLO enrolments and suspension and exclusion rates. While these patterns are correlational, meaning that causality cannot be inferred using the data we had at our disposal, they should also not be interpreted to suggest—as they may have in the past—that FLO is a successful ‘antidote’ to student behaviour or an effective strategy to reduce rates of suspension and exclusion. Given evidence received through this Inquiry, including that attendance in FLO programs is low and students outcomes are poor, it is more likely that students in FLO are no longer being suspended or excluded because a significant proportion are no longer attending and/or are not being required to achieve academically. This hypothesis resonates with feedback from stakeholders described above and in Chapter 5.

The overrepresentation of Aboriginal students, as well as students with disability, in FLO was clearly indicated in the SA Department for Education’s data. In 2019, more than one third of all FLO enrolments were either Aboriginal or students receiving IESP funding. These data are particularly concerning in light of evidence received that indicates alternative settings such as FLOs are not equipped to support students with complex learning profiles. Reports that attendance in FLO is low and that student outcomes are poor, highlight the inappropriateness of diverting such students into what can only be described as a low visibility, lower quality educational option. This is supported by findings described in Case Study 1, where we observed that of the 735 Year 10 students enrolled in FLO in 2017, only one in ten returned to government schools in Year 11, while three quarters remained in FLO and the other 13.2% were no longer actively enrolled. In Year 12, only 6.8% of the 734 students were in government schools, 47.3% were still in FLO, and 45.9% were no longer actively enrolled. Further, of the 734 students, only 25 (3.4%) undertook the SACE.

The findings also raise questions regarding the use of funding supposedly being directed to these students, how it is being spent and on whom, when a significant number may not be attending and thus not receiving an education. Recent amendments to the *Education and Children’s Services Act 2019* (SA) impose tough penalties where a student does not attend school or an approved learning program as required under the Act, including financial penalties up to \$5,000 for each person who is responsible for the child (*Education and Children’s Services Act 2019* (SA), s68-69). The Act does not specify that this person is necessarily a parent or carer and ‘each person who is responsible for the child’ may well include the principal, FLO coordinators, case workers and teachers. Current FLO practice is inconsistent with the Act and data about retention and attendance rates, as well as educational achievement of students enrolled in FLOs is largely inaccessible, preventing robust analysis of the extent of absenteeism or the effectiveness of FLO programs. As noted in Section 11.9, we were unable to obtain data that would allow such analysis as part of this Inquiry. We also observed that NCCD data is yet to be linked to the data for satellite or alternative options, including FLOs.

While some stakeholders acknowledged that FLO has benefited some students, evidence received through this Inquiry indicates there are significant flaws in the FLO model, including lack of accountability in decision-making about FLO enrolment, lack of monitoring of attendance, retention and achievement of FLO students, and lack of supports to facilitate students' return to mainstream school environments which are likely to entrench students' segregation and disengagement rather than serve their fundamental rights, interests and outcomes. These findings indicate FLO, as well as monitoring and oversight of FLO programs, is failing to protect students' fundamental rights to education, run counter to recent changes to legislation designed to improve attendance, are likely to breach international human rights obligations described in Chapter 3, and are contrary to best practice described in Chapter 4.

**Finding 8.5:** Some education staff continue to hold attitudes towards students with disabilities that are not aligned with principles of best practice, international human rights obligations, and obligations under the DDA and DSE. School leaders face barriers to ensuring all teaching staff positively contribute to the achievement of school improvement targets and implementation of inclusive practices consistent with best practice and statutory obligations.

Submissions by some education staff reflected attitudes that conflict with their legal obligation to ensure students' rights to inclusive education. For example, some staff were in favour of the segregation of students with "behaviours of concern", and some advocated for more segregated special schools for children with disability. Some of these responses suggested that the rights of students without disability to education trump the rights of children with disability to an inclusive education. Some also commented that resourcing should be diverted away from students who "choose" to misbehave or disrupt the learning of others. Inherent in these comments is the notion of a scale of deservedness for supports, such that children with complex learning profiles and especially those who pose behaviour management difficulties for staff are viewed as less deserving. Such attitudes fail to recognise the transactional nature of behaviour within a "social model" of disability that focuses on how the environment around a student may need to be adjusted to provide a positive learning environment, including student-teacher relationships, and accessibility of pedagogy, curriculum and assessment. Such attitudes are likely to drive practices that are not aligned with obligations under the DDA and DSE, international human rights obligations and principles of best practice, including many of the issues observed throughout this chapter.

We also heard from educational leaders that it is extremely difficult to performance manage teachers who do not have the skills to engage in best practice. School leaders and senior level staff noted that they are aware of patterns in the use of exclusionary discipline within their school or region that could be traced to individual teachers, and not necessarily to individual students; that is, some teachers generate significantly more conflict or were significantly less capable of preventing and de-escalating conflict than other teachers. This resonates with what students themselves said with respect to inconsistencies between classrooms and being "picked on" by certain teachers. Some school leaders and senior level staff expressed frustration at their inability to effectively address conflict arising from these problems of practice, especially in heavily unionised schools, with some noting that industrial reform and the provision of greater power to principals to appoint and performance manage their own teaching staff, would be a welcome recommendation from the Inquiry.

It is interesting that legislative reform designed to give more power over school discipline to principals in Queensland in 2014 stopped short of providing them with the power to ensure the fundamentals of quality practice, leading instead to an exponential increase in suspensions. A measure of the scale of that increase is this: in the six years prior to the 2014 legislative changes, suspensions in QLD state schools increased by 3.3%. In the six years since, they increased by 33.1%. Giving principals greater power to suspend, without giving them the power they need to drive quality teaching and inclusive practice *school-wide*, will lead simply to an increase in suspensions and not the changes in practice necessary to prevent them. While it is often said that the success of school improvement, such as inclusive school reform, comes down to school leaders, this places enormous pressure on one individual who, some school leaders reported, are vulnerable to staff who refuse to “get on board” and are not subject to the same accountability measures.

RECOMMENDATIONS FOR THE SA DEPARTMENT FOR EDUCATION	FINDINGS
<p><b>RECOMMENDATION 24</b></p> <p>That the SA Department for Education:</p> <p><b>Commission research</b> to document the full range of alternative provisions available through the SA government school sector, investigate their effectiveness and evaluate their purpose in line with international conventions and South Australia’s ambitions to provide a world-class education.</p>	<p>8.1, 8.2, 8.3</p>
<p><b>RECOMMENDATION 25</b></p> <p>That the SA Department for Education:</p> <p>(a) <b>Decommission</b> the Flexible Learning Options (FLO) and Alternative Learning Programs (ALP).</p> <p>(b) Meet the needs of students previously referred to alternative, flexible and segregated learning options through the improvement of regular classroom practice and the provision of tiered supports as per a system-wide <b>Multi-Tiered Systems of Support (MTSS) framework</b>, as recommended throughout this report.</p>	<p>8.4, 9.3</p>
<p><b>RECOMMENDATION 26</b></p> <p>That the SA Department for Education:</p> <p>(a) Investigate ways to <b>better support principals and Education Directors</b> to ensure <i>all</i> staff:</p> <ul style="list-style-type: none"> <li>(i) engage in quality and ongoing professional learning in areas that support SA Department for Education school improvement targets,</li> <li>(ii) contribute positively and effectively to the learning, engagement, and behaviour of all students,</li> <li>(iii) model productive and respectful behaviours,</li> <li>(iv) implement evidence-based best practice, and</li> <li>(v) uphold their obligations under international law, and Commonwealth and state legislation.</li> </ul>	<p>8.5</p>

## 11.9 DATA AND RECORD KEEPING

### Terms of Reference:

- *Keeping accurate and transparent records of the number of children suspended, excluded or expelled from school; the nature of and reason for their suspension, exclusion or expulsion; and their modified or other enrolment or different options (including hours of contact, curriculum offerings, etc.).*
- *Whether the data collected by the department regarding suspensions, exclusions and expulsions is sufficient to inform departmental policy-making and programs.*

**Finding 9.1:** While data regarding take homes, suspensions, exclusions and expulsions are generally sufficient to inform departmental policy-making and programs, there are opportunities to improve the use of this data including through improving its accessibility to Education Directors. Currently, data collected by the SA Department for Education regarding suspensions, exclusions and expulsions is not sufficient to inform departmental policy-making and programs. Given the range of data available to the DfE, these data should be further analysed in future collaborative research to help better monitor and address incidents, particularly in relation to bullying and harassment, to identify and upscale high-quality practices, and to better tailor programs and practices to improve student outcomes.

While data relating to the use of exclusionary discipline is generally sufficient to inform departmental policy-making and programs, we observed little evidence to indicate that this data is regularly monitored at a school, regional or state-wide level to inform decision-making and monitor impacts of policies and programs. We observed no evidence, for example, that the data is regularly monitored to identify particular regions or schools that are performing well or underperforming, representing missed opportunities to identify areas where additional policy focus may be warranted to improve school practices, and missed opportunities to identify and celebrate good practice as an example for other schools and regions.

We also heard from education staff that while the SA Department for Education provides access to a data dashboard at the regional level to support policy and program decisions by Education Directors, these dashboards do not include disaggregated data regarding the frequency of take homes, suspensions, exclusions or expulsions for particular 'at-risk' groups such as students with disability, Aboriginal students, and students in care. These dashboards also do not allow regions to identify frequency of exclusionary practices for individual students within a school year, or patterns throughout their schooling experience, limiting their ability to identify students who are particularly at risk of repeated exclusionary practices and the resulting impacts on behaviour, engagement and achievement.

This also prevents, for example, the ability of Education Directors to identify when a student has been suspended or excluded above the statutory thresholds, which as we observed above and in Case-Study 3 (Section 7.4) occurs frequently without the required approvals from Education Directors, as delegated by the Chief Executive. While such data is available, limitations to the accessibility of this data limit the ability of schools or regions to analyse their data in a way that promotes informed policy and program decisions that are focused on improving outcomes for students. This limits the SA Department for Education's ability to ensure practice is aligned with international human rights obligations as described in Section 3.2, compliant with obligations

under Commonwealth and state legislation described in Sections 3.3 and 3.6, and consistent with best practice described in Chapter 4.

Note also that a central element of Multi-Tiered Systems of Support (MTSS) and Positive Intervention and Behaviour Supports (PBIS) best practice is data-informed decision making. Importantly, we heard that regular reports of take homes, suspensions and exclusions are produced by Preschools, Schools and Partnerships (PSP) but not typically disseminated to the Chief Executive, Education Directors, or Principals, and nor are the reports that are generated by PSP disaggregated by priority equity groups (e.g., students with disability, Aboriginal students and students in care). Without such data, staff at each level of the system cannot monitor the existing legislative thresholds, nor can they identify and address patterns indicating the potential effects of non-compliance with the DSE, with respect to the provision of reasonable adjustments and support to ensure that students with disability can access and participate in education on the same basis as students without disability.

Although still incomplete and not yet available at the school-level, the Queensland Department of Education developed “data dashboards” as an outcome of the 2017 Deloitte Disability Review. These dashboards disaggregate performance data according to key indicators by which the Department is measuring the success of its Inclusive Education Policy. These key indicators inform targets aimed at:

- improving the A-E performance for students with disability
- increasing the proportion of students with disability receiving a Queensland Certificate of Education
- decreasing the proportion of students with disability receiving a school disciplinary absence
- reducing the number of students with disability not attending a full-time program.

The SA Department could build on this previous policy work, extending it to all three priority equity groups to support principals and teachers to achieve better outcomes with intelligent policy design, quality professional learning and improved workforce performance management, as per Recommendations 22 and 25.

In addition to providing disaggregated data dashboards at the more local level, the data collected by the SA Department for Education should be further investigated in research. The SA Department for Education has access to a rich longitudinal dataset, with linked data at the student-level for early childhood and sociodemographic information, health outcomes, and educational outcomes. Linked data of this kind provides a powerful opportunity to explore factors, uniquely and in combination, which are predictive of student behavioural and academic outcomes and capable of identifying protective factors, as well as features of and within the system that are working well and which could be further enhanced or implemented more broadly. Future collaborative research using the larger student-level dataset should employ sophisticated multivariate longitudinal analysis, which would enable a deeper understanding of the complex context in which behavioural and academic outcomes are taking place, and how relevant predictor variables manifest and influence one another over time. Findings would be able to inform early intervention and domains in which policy and practice could be improved both productively and cost-effectively. This kind of analysis would also provide insights into which variables contribute to preventable trajectories, such as the school-to-prison pipeline.

**Finding 9.2:** Existing data categories and sub-categories for student discipline such as take homes, suspensions and exclusions overlap and may result in inaccuracies in data, particularly in relation to the prevalence of bullying in government schools, limiting the SA Department for Education's capacity to rely on this data to inform policy-making and programs.

As described in Chapter 5, we heard from many students who reported a high prevalence of bullying and concerns that schools do not effectively respond to bullying, including for example through disciplinary responses for the 'perpetrator' of bullying. In the Department for Education's data, we observed that suspensions for 'bullying and harassment (including cyber-bullying)' accounted for just 9.1% of suspensions in 2019. At first glance this figure seems surprisingly low given the reported prevalence of bullying in schools from the perspectives of students and may appear to reinforce student concerns that schools fail to address bullying and harassment. However these data should be treated with caution as it is possible that incidents that have been coded by school staff into other categories, such as 'Physical Acts (Minor)' or 'Written or Verbal Threats', may be more appropriately classified as 'bullying and harassment', or into an expanded or additional code for bullying that includes bullied students' responses to perpetrators of bullying. Ensuring that schools are capturing and reporting data regarding disciplinary responses to both the perpetrators of bullying, as well as bullied students' responses to perpetrators may assist the SA Department for Education to better analyse and respond to bullying in government schools through more informed policy-making and programs. Clearer definition of and distinction between the range of reasons from which principals can choose, is especially important given the recent changes to legislation allowing for perpetrators of chronic bullying and serious assaults to be moved to a different school.

**Finding 9.3:** Existing data reporting and monitoring frameworks for Flexible Learning Options are not sufficient to support robust analysis of the impacts of FLO on student engagement and achievement, and to inform departmental policy decisions about the future of FLO. However, due to the seriousness of the problems in FLO, including the poor outcomes that been noted in other research, we have instead recommended that the SA DfE decommission FLO (see *Recommendation 24a*). The South Australian government might consider redirecting the funding currently used for FLO to support the establishment of a Multi-Tiered Systems of Support (MTSS) framework.

As discussed in Sections 5.10 and 9.4, despite significant concerns about the possible misuse of funding, low attendance rates and low academic achievement in Flexible Learning Options, we heard that data about retention and attendance rates, as well as educational achievement of students enrolled in FLOs is not sufficient to support robust analysis of how FLO programs are impacting on the rights and interests of students, and to inform departmental policy decisions regarding the future of FLO. We were unable to obtain data that would allow such analysis as part of this Inquiry. We also observed that NCCD data is yet to be linked to the data for satellite options including FLOs, which further limits capacity for analysing the experiences of students receiving adjustments for disability under the NCCD in FLO programs.

RECOMMENDATIONS FOR THE SA DEPARTMENT FOR EDUCATION	FINDINGS
<p><b>RECOMMENDATION 27</b></p> <p>That the SA Department for Education:</p> <p>(a) Develop <b>data dashboards</b> using performance indicators that are disaggregated by priority equity group (Aboriginal students, students with disability, students in care) to:</p> <ul style="list-style-type: none"> <li>(i) detect patterns and monitor changes in the use of exclusionary discipline for all students, especially those in priority equity groups, by category of school and by school,</li> <li>(ii) enable multilevel system-wide identification and elimination of overrepresentation in: <ul style="list-style-type: none"> <li>3. take homes and suspensions</li> <li>4. all enrolment options (e.g., mainstream, special classes, units and schools, part-time programs, Open Access, exemptions and home schooling),</li> </ul> </li> <li>(iii) monitor and improve the academic performance of students in these priority equity groups,</li> <li>(iv) increase the proportion of these students achieving a South Australian Certificate of Education,</li> <li>(v) assist school leaders to engage in data-based decision making.</li> </ul> <p>(b) Establish exclusionary discipline indicators and reduction targets for students in priority equity groups (Aboriginal students, students with disability, students in care) to sit within the Key Performance Indicators (KPIs) of Education Directors.</p> <p><i>* See Recommendation 25a in relation to Finding 9.3</i></p>	<p>9.1, 9.3</p>
<p><b>RECOMMENDATION 28</b></p> <p>That the SA Department for Education:</p> <p>(a) <b>Commission research</b></p> <ul style="list-style-type: none"> <li>(i) to examine the incidents that are being described as bullying versus those being described as ‘Written or Verbal Threats’ and ‘Physical Assault (Minor)’ to determine whether these data are a true representation of actual incidents and how to better disentangle and thus monitor and address the prevalence of bullying and harassment in SA schools.</li> <li>(ii) identify high quality practices occurring at school level using SA Department for Education data to learn more about the leadership, teaching and support practices occurring in those schools with the view to upscaling and sharing quality practices.</li> <li>(iii) investigate relevant protective and predictive factors using longitudinal statistical analysis techniques of existing linked datasets, which may help the SA Department for Education implement programs and practices to improve student outcomes.</li> </ul> <p><i>* See also Recommendation 24.</i></p> <p>(b) <b>Revise</b> the reasons available to principals on EDSAS to:</p> <ul style="list-style-type: none"> <li>(i) align with the newly revised permissible grounds (as per Recommendation 12),</li> <li>(ii) provide clearer distinction between categories to achieve greater data accuracy.</li> </ul> <p>(c) <b>Make exclusionary discipline data publicly available</b> and disaggregate by gender, year level, priority group status, school phase, category of school, reason and duration to enable greater public scrutiny of progress towards reduction in use.</p>	<p>9.1</p> <p>9.2</p>

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## 13 APPENDIX A – JURISDICTIONAL COMPARISON OF EXCLUSIONARY DISCIPLINE LAWS

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As part of the Inquiry, an analysis was conducted of each Australian state and territory legislation and policy instruments governing the permissible period and grounds for suspensions, exclusions and expulsions in government schools. It should be acknowledged that disciplinary decisions are made in the context of broader legislative and policy frameworks within each jurisdiction, and the below analysis should not be considered a comprehensive analysis of each individual jurisdiction’s decision-making frameworks.

It should also be noted that terminology around suspensions, exclusions and expulsions differs between jurisdictions. For example, Queensland’s framework refers to short suspensions, long suspensions, exclusions and cancellations of enrolment, while the framework in New South Wales refers to short suspensions, long suspensions and expulsions. Evidently these differ to terminology used in South Australia’s disciplinary decision-making framework. Furthermore, different jurisdictions also contain other unique thresholds for use of certain disciplinary interventions. For example, expulsions in South Australia are only permitted to be used for students above compulsory school age, while in other jurisdictions an expulsion may be used for any student. In some jurisdictions such as Tasmania and Western Australia, more serious disciplinary decisions may not be made by a school principal.

Table 3.8 (see Section 3.7) provides a comparison of permissible lengths of each jurisdiction’s respective disciplinary interventions. Different disciplinary responses between jurisdictions are compared on the basis of comparable purpose rather than terminology, to the extent that this is possible noting the unique features within individual jurisdictions. Table 13.1 (below) provides a comparison of the grounds on which each disciplinary intervention may be made, across all Australian jurisdictions, which is discussed in Section 3.7.

### 13.1 PERMISSIBLE GROUNDS FOR SUSPENSION, EXCLUSION AND EXPULSION BY JURISDICTION

Table 13.1. *Jurisdictional comparison of permissible grounds for suspensions, exclusions and expulsions*

Jurisdiction	Suspension (Short)	Suspension (Long)	Exclusion	Expulsion
South Australia	<p>A school principal may <b>suspend</b> a student on the following grounds:</p> <ul style="list-style-type: none"> <li>(g) the student has threatened or perpetrated violence; or</li> <li>(h) the student has acted in a manner that threatens the safety or wellbeing of a student or member of staff of, or other person associated with, the school (including by sexually harassing, racially vilifying, verbally abusing or bullying that person); or</li> <li>(i) the student has acted illegally; or</li> <li>(j) the student has interfered with the ability of a teacher to instruct students or of a student to benefit from that instruction; or</li> <li>(k) the student has acted in a manner that threatens the good order of the school by persistently contravening or failing to comply with rules applying within the school with respect to behaviour; or</li> <li>(l) the student shows persistent and willful inattention or indifference to school work.<sup>9</sup></li> </ul>		<p>A school principal may <b>exclude</b> a student of any age on the following grounds:</p> <ul style="list-style-type: none"> <li>(a) the student has threatened or perpetrated violence; or</li> <li>(b) the student has acted in a manner that threatens the safety or wellbeing of a student or member of staff of, or other person associated with, the school (including by sexually harassing, racially vilifying, verbally abusing or bullying that person); or</li> <li>(c) the student has acted illegally; or</li> <li>(d) the student has persistently interfered with the ability of a teacher to instruct students or of a student to benefit from that instruction; or</li> <li>(e) the student has acted in a manner that threatens the good order of the school by persistently contravening or failing to comply with rules applying within the school with respect to behaviour.<sup>10</sup></li> </ul>	<p>A student above compulsory school age may be <b>expelled</b> on the following grounds:</p> <ul style="list-style-type: none"> <li>(a) the student has threatened or perpetrated violence; or</li> <li>(b) the student has acted in a manner that threatens the safety or wellbeing of a student or member of staff of, or other person associated with, the school (including by sexually harassing, racially vilifying, verbally abusing or bullying that person); or</li> <li>(c) the student has acted illegally; or</li> <li>(d) the student has persistently interfered with the ability of a teacher to instruct students or of a student to benefit from that instruction.<sup>11</sup></li> </ul>

<sup>9</sup> *Education and Children’s Services Act 2019* (SA) s76(1).

<sup>10</sup> *Education and Children’s Services Act 2019* (SA) s77(1).

<sup>11</sup> *Education and Children’s Services Act 2019* (SA) s78(1). Ground (d) is not a permissible ground for expulsion from all government schools: *Education and Children’s Services Act 2019* (SA) s79(1).

<p><b>Queensland</b></p>	<p>A school principal may suspend a student (<b>short suspension</b>) on the following grounds:<sup>12</sup></p> <ul style="list-style-type: none"> <li>(a) disobedience;</li> <li>(b) misbehaviour;</li> <li>(c) conduct that adversely affects, or is likely to adversely affect, other students;</li> <li>(d) conduct that adversely affects, or is likely to adversely affect, the good order and management of the school;</li> <li>(e) the student's attendance at the school poses an unacceptable risk to the safety or wellbeing of other students or of staff;</li> <li>(f) the student is charged with a serious offence.</li> </ul> <p>Or if the following are satisfied:<sup>13</sup></p> <ul style="list-style-type: none"> <li>(a) the student is charged with an offence other than a serious offence; and</li> <li>(b) the principal is reasonably satisfied it would not be in the best interests of other students or of staff for the student to attend the school while the charge is pending.</li> </ul>	<p>A school principal may suspend a student (<b>long suspension</b>) on the same grounds as a short suspension.</p>	<p>A school principal can <b>exclude</b> a student of any age on the following grounds:<sup>14</sup></p> <ul style="list-style-type: none"> <li>(a) persistent disobedience;</li> <li>(b) misbehaviour;</li> <li>(c) conduct that adversely affects, or is likely to adversely affect, other students;</li> <li>(d) conduct that adversely affects, or is likely to adversely affect, the good order and management of the school;</li> <li>(e) the student's attendance at the school poses an unacceptable risk to the safety or wellbeing of other students or of staff.</li> </ul> <p>Or if the following are satisfied:<sup>15</sup></p> <ul style="list-style-type: none"> <li>(a) the student has been convicted of an offence; and</li> <li>(b) the principal is reasonably satisfied it would not be in the best interests of other students or of staff for the student to be enrolled at the school.</li> </ul> <p>A school principal can also <b>cancel the enrolment</b> of a student above compulsory school age if the student's behaviour amounts to a refusal to participate in the educational program provided by the school.<sup>16</sup></p>
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<sup>12</sup> Education (General Provisions) Act 2006 (Qld) s282(1).

<sup>13</sup> Education (General Provisions) Act 2006 (Qld) s282(2).

<sup>14</sup> Education (General Provisions) Act 2006 (Qld) s292(1), 299(1).

<sup>15</sup> Education (General Provisions) Act 2006 (Qld) s292(2), 299(2).

<sup>16</sup> Education (General Provisions) Act 2006 (Qld) s316-317.

<p><b>NSW</b></p>	<p>A school principal may suspend a student (<b>short suspension</b>) on the following grounds:<sup>17</sup></p> <ul style="list-style-type: none"> <li>(a) continued disobedience;</li> <li>(b) aggressive behaviour.</li> </ul> <p>A short suspension must be imposed on any student who:<sup>18</sup></p> <ul style="list-style-type: none"> <li>(a) is physically violent;</li> <li>(b) is in possession of a firearm, prohibited weapon or knife (without reasonable cause);</li> <li>(c) uses, supplies, or is in possession of, a suspected illegal substance (not including alcohol or tobacco) or supplies a restricted substance;</li> <li>(d) engages in serious criminal behaviour related to the school.</li> </ul>	<p>A school principal may suspend a student (<b>long suspension</b>) on the following grounds:<sup>19</sup></p> <ul style="list-style-type: none"> <li>(a) use of an implement as a weapon.</li> <li>(b) persistent or serious misbehaviour.</li> </ul> <p>Long suspensions must be imposed for:<sup>20</sup></p> <ul style="list-style-type: none"> <li>(a) physical violence.</li> <li>(b) use or possession of a prohibited weapon, firearm or knife.</li> <li>(c) possession, supply or use of a suspected illegal substance.</li> <li>(d) serious criminal behaviour related to the school.</li> </ul>	<p>A school principal may <b>expel</b> a student of any age in serious circumstances of misbehaviour.<sup>21</sup></p>
<p><b>Victoria</b></p>	<p>A school principal may <b>suspend</b> a student on the following grounds:<sup>22</sup></p> <ul style="list-style-type: none"> <li>(a) behaves in such a way as to pose a danger, whether actual, perceived or threatened, to the health, safety or wellbeing of any person.</li> <li>(b) causes significant damage to or destruction of property.</li> <li>(c) commits or attempts to commit or is knowingly involved in the theft of property.</li> </ul>	<p>A school principal may <b>expel</b> a student above 8 years of age (or younger with approval from the Secretary) on the following grounds:<sup>23</sup></p> <ul style="list-style-type: none"> <li>(a) does anything that would justify a suspension, and</li> <li>(b) the student's behaviour is of such magnitude that, having regard to the need of the student to receive an education compared to the need to maintain the health, safety and wellbeing of other students and staff at the school and the need to maintain the</li> </ul>	

<sup>17</sup> NSW Department of Education and Communities, *Suspension and Expulsion of School Students Procedures – 2011*, < [https://policies.education.nsw.gov.au/policy-library/associated-documents/suspol\\_07.pdf](https://policies.education.nsw.gov.au/policy-library/associated-documents/suspol_07.pdf) > para [6.2.1].

<sup>18</sup> NSW Department of Education and Communities, *Suspension and Expulsion of School Students Procedures – 2011*, < [https://policies.education.nsw.gov.au/policy-library/associated-documents/suspol\\_07.pdf](https://policies.education.nsw.gov.au/policy-library/associated-documents/suspol_07.pdf) > para [6.1.4].

<sup>19</sup> NSW Department of Education and Communities, *Suspension and Expulsion of School Students Procedures – 2011*, < [https://policies.education.nsw.gov.au/policy-library/associated-documents/suspol\\_07.pdf](https://policies.education.nsw.gov.au/policy-library/associated-documents/suspol_07.pdf) > para [6.3.2].

<sup>20</sup> NSW Department of Education and Communities, *Suspension and Expulsion of School Students Procedures – 2011*, < [https://policies.education.nsw.gov.au/policy-library/associated-documents/suspol\\_07.pdf](https://policies.education.nsw.gov.au/policy-library/associated-documents/suspol_07.pdf) > para [6.3.2].

<sup>21</sup> NSW Department of Education and Communities, *Suspension and Expulsion of School Students Procedures – 2011*, < [https://policies.education.nsw.gov.au/policy-library/associated-documents/suspol\\_07.pdf](https://policies.education.nsw.gov.au/policy-library/associated-documents/suspol_07.pdf) > para [8.1.1].

<sup>22</sup> Ministerial Order 1125 – Procedures for suspension and expulsion of students in government schools (2018) <<https://www.education.vic.gov.au/Documents/school/teachers/studentmanagement/MinisterialOrder1125SIGNED.PDF>>, para 9.

<sup>23</sup> Ministerial Order 1125 – Procedures for suspension and expulsion of students in government schools (2018) <<https://www.education.vic.gov.au/Documents/school/teachers/studentmanagement/MinisterialOrder1125SIGNED.PDF>>, para 13.

	<p>(d) possesses, uses or sells or deliberately assists another person to possess, use or sell illicit substances or weapons.</p> <p>(e) fails to comply with any clear and reasonable instruction of a staff member so as to pose a danger, whether actual, perceived or threatened, to the health, safety or wellbeing of any person.</p> <p>(f) consistently engages in behaviour that vilifies, defames, degrades or humiliates another person.</p> <p>(g) consistently behaves in an unproductive manner that interferes with the wellbeing, safety or educational opportunities of any other student</p>	effectiveness of the school's educational programs, expulsions is the only available mechanism.	
<b>Tasmania</b>	<p>A school principal may <b>suspend</b> a student if all the following are satisfied:<sup>24</sup></p> <p>(a) a school student has behaved in an unacceptable manner, within the meaning of the Secretary's instructions, or is so behaving; and</p> <p>(b) the behaviour posed or poses a risk to the health or safety of another school student, a teacher or another person at the school; and</p> <p>(c) that risk may be removed only by the immediate removal of the school student from the school.</p>	<p>The Secretary may <b>exclude</b> any student if satisfied that the unacceptable behaviour of a school student justifies exclusion, following a referral from a school principal who is satisfied that:<sup>25</sup></p> <p>(a) the approved behaviour management policy of the school has been complied with in relation to the unacceptable behaviour of a school student, within the meaning of the Secretary's instructions; and</p> <p>(b) compliance with that policy has not been effective in dealing with the unacceptable behaviour; and</p> <p>(c) the unacceptable behaviour of the student justifies a suspension of more than 2 weeks.</p>	<p>The Secretary may <b>expel</b> any student if satisfied that the unacceptable behaviour justifies expulsion.<sup>26</sup></p>
<b>Western Australia</b>	<p>A school principal may suspend a student (<b>short suspension</b>) where the student has, in the principal's opinion, committed a breach of school discipline.<sup>27</sup></p>	<p>A school principal may suspend a student (<b>long suspension</b>) where the student has committed a serious breach of school discipline.<sup>28</sup></p>	<p>A school principal may <b>exclude</b> a student on the following grounds:<sup>29</sup></p> <p>(a) he or she has committed a breach of school discipline in circumstances that —</p> <p>a. have adversely affected or threaten the safety of any person who is on the school premises or participating in an educational programme of the school; or</p> <p>b. have caused or are likely to result in damage to property.</p>

<sup>24</sup> Education Act 2016 (Tas) s130.

<sup>25</sup> Education Act 2016 (Tas) s132.

<sup>26</sup> Education Act 2016 (Tas) s132.

<sup>27</sup> School Education Act 1999 (WA) s 90(1); School Education Regulations 2000 (WA) s43(a).

<sup>28</sup> School Education Act 1999 (WA) s 90(1); School Education Regulations 2000 (WA) s43(b).

<sup>29</sup> School Education Act 1999 (WA) s91.



			(b) his or her behaviour has disrupted the educational instruction of other students. A school principal may <b>exclude a student above compulsory school</b> age if: <sup>30</sup> (a) the student's attendance at the school is not satisfactory, or (b) the student is not participating in the educational programme of the school in a way that is of benefit to his or her educational progress, or (c) the student has failed to comply with a requirement of any applicable code of conduct for students at the school.
<b>ACT</b>	A school principal may recommend to the director-general that the director-general <b>suspend</b> a student on the following grounds: <sup>31</sup> (a) is persistently and wilfully noncompliant, or (b) threatens to be violent or is violent to another student attending the school, a member of the staff of the school or anyone else involved in the school's operation, or (c) acts in a way that otherwise threatens the good order of the school or the safety or wellbeing of another student attending the school, a member of staff of the school or anyone else involved in the school's operation, or (d) displays behaviour that is disruptive to the student's learning or that of other students.  The director-general may delegate the power to suspend a student to a school principal. <sup>32</sup>		A school principal may recommend to the director-general that the director-general <b>exclude</b> any student from all government schools, or transfer the student to another government school, on the same grounds as for a suspension. <sup>33</sup>
<b>Northern Territory</b>	A school principal may <b>suspend</b> a student if satisfied that the student's presence is likely to constitute a risk of physical or psychological harm to other persons at the school (e.g. the student is repeatedly disobedient or is guilty of a serious breach of discipline). <sup>34</sup>	Only the CEO may <b>exclude</b> any student, and only where the student is charged with an offence (committed either in or outside of NT) punishable by a term of imprisonment of more than 2 years. <sup>35</sup>	Only the Minister may <b>expel</b> any student, and only if the Minister considers it necessary in the interests of other persons present at the school. <sup>36</sup>

<sup>30</sup> School Education Act 1999 (WA) s95.

<sup>31</sup> Education Act 2004 (ACT) s36.

<sup>32</sup> Education Act 2004 (ACT) s36(10).

<sup>33</sup> Education Act 2004 (ACT) s36.

<sup>34</sup> Education Act 2015 (NT) s91.

<sup>35</sup> Education Act 2015 (NT) s92.

<sup>36</sup> Education Act 2015 (NT) s93.

## 14 APPENDIX B

### 14.1 TRENDS OVER TIME IN REASONS FOR EXCLUSIONARY DISCIPLINE

Table 14.1. Mann-Kendall tests investigating trends over time in the incidence of take homes, suspensions, and exclusions for each reason category in primary and secondary (2013-2019).

Phase	Sub-categories	Take Home	Suspension	Exclusion
Primary	Bullying and Harassment (including Cyber)	-.91*	-.91*	-.33
	Disengaged behaviour	.91*	-.71*	.07
	Disruptive behaviour	-.91*	-.24	-.20
	Drugs	-	-.62	-
	Other Criminal Acts (Theft & Arson)	-.24	-.33	-
	Physical Acts that Harm Others (Major and/or with Weapon)	.43	-.24	-.52
	Physical Acts that Harm Others (Minor)	.91*	1.0*	.24
	Property Destruction (excluding arson)	.24	.33	-
	Rules Violations	-.62	-.91*	-.43
	Sexual Acts and Behaviours	-.05	-.52	-
	Written and Verbal Threats	.71*	.91*	.81*
Secondary	Bullying and Harassment (including Cyber)	.05	.05	-.43
	Disengaged behaviour	-.43	-.62	-.24
	Disruptive behaviour	.24	.05	-.24
	Drugs	-.05	.05	-.14
	Other Criminal Acts (Theft & Arson)	-	.71*	-
	Physical Acts that Harm Others (Major and/or with Weapon)	.05	-.14	-.52
	Physical Acts that Harm Others (Minor)	.33	.91*	.52
	Property Destruction (excluding arson)	.05	.24	-.07
	Rules Violations	-.24	-.81*	-.14
	Sexual Acts and Behaviours	-	-.52	-.40
	Written and Verbal Threats	-.05	.81*	.33

Note. \*Significant at the 0.01 level (2-tailed). Red highlighted coefficients indicate a significant negative trend over time; green highlighted indicate a significant positive trend over time. Categories with fewer than 6 years of data are excluded from analyses.