

Minister James Merlino
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Dear Minister Merlino,

Disability Advocacy Victoria is the peak organisation for independent advocacy organisations in Victoria.

We wish to raise two matters with you, and ask you to bear them in mind given the forthcoming State election.

MEDIA RELEASE 15 FEBRUARY 2018

We were appalled to read your media release entitled “New Support to Better Protect Our Teachers and Students”. In that media release, you referred to “violent and aggressive behaviour” on a number of occasions to describe behaviours of concern of students of disabilities. While you did not mention students of disabilities, we are well aware that that is the cohort you are referring to. We are aware of the new appointments.

Firstly, the appropriate term to describe unwanted behaviours from people with disabilities is “behaviours of concern” or “severe behaviours of concern”. You are the Minister for Education, and prior to your last election claimed to have a great interest in the education of students of disabilities. With respect it is your responsibility to set the tone of the discourse when discussing them.

Secondly, your new Board Certified Behaviour Analysts will tell you that behaviours are environmental and are learned. There is a very sensible explanation as to why hundreds of students with disabilities display severe behaviours of concern in the school environment, but not in other environments. It is because you and your predecessors have expected school staff to deal with these behaviours on their own, and they have done so inexpertly, and often using violence and false imprisonment. Your media release did not seem to accept

any responsibility for this state of affairs, and indeed used pejorative and demonising language to describe a group of children who have been mismanaged by the school staff.

We note your reference to the “Anti-Bullying and Mental Health Initiative”. May we suggest that you look at the relevant court documents to see how many students with disabilities in Victorian schools are being bullied, and have a look at the completely inadequate manner which Department of Education and Training staff are responding to such bullying. The most common response by school staff used to deny that the bullying occurs, and do very little.

We draw your attention to the likelihood of any of your initiatives being successful in the absence of you addressing Department of Education and Training culture and practice.

AGE ARTICLE DATED 6 FEBRUARY 2018

We note your misapprehension that the quality of education for Victorian students is improving greatly under your watch. In terms of students with disabilities, there is absolutely no evidence of this, despite the ALP’s stated commitment to this area just prior to being elected.

Schools Commissioner

We note that rather than an independent statutory authority with powers, what we have instead is a panel chosen by you, which reports to the Deputy Secretary of the Department of Education and Training, and which has no powers.

Review of Program for Students with Disabilities

We have had a review, but the funding under the Program for Students of Disabilities remains the same two years later.

Held Back Analysis Report/General

We note that the Victorian Equal Opportunity and Human Rights Commission five-year analysis in 2017 showed little progression in any area.

- Student Support Groups continue to be held with little regard for guidelines
- Individual Education Plans continue to either be unwritten, or written with little regard for guidelines or best practice
- Behaviour Support Plans continue to either be unwritten, or written with little regard for guidelines or best practice
- the Department of Education and Training continue to vigorously defend violence against students with disabilities
- there continues to be no right to Auslan Interpreters
- there continues to be no right to be taught a Communication Method
- students with disabilities continue to be treated as if they have little capacity
- mainstream schools continue to claim they cannot meet the needs of students with disabilities, and refer them to special schools
- the recent Department of Education and Training inclusion policy did not reflect Australia’s obligations under the Convention on the Rights of Persons with Disabilities
- students with disabilities continue to be denied full-time enrolment

Violence

Violence against students with disabilities by school staff continues to be protected by the Department of Education and Training, and by you. The low point in your tenure as Minister for Education was when you sanctioned the use of cages in Bendigo Special Developmental School. Not one teacher or aide to our knowledge has suffered any consequence as a result of the violence, abuse and neglect of students with disabilities. The Principal Practice Leader has no powers, and restraint and seclusion continue.

While you have been Minister, the Regulation in the *Education and Training Reform Act* that allows the abuse of students with disabilities in schools has remained, even in the face of the Victorian Equal Opportunity and Human Rights Commission condemning that regulation.

Outcomes

We understand there to be more complaints of discrimination against the Department of Education and Training since you have been Minister than ever before. Recent Office for Disability statistics once again show education as the highest/equal highest area of work for disability advocates.


Response to Families Who Complain

We understand that families who make a complaint against the Department of Education and Training on behalf of their child with a disability, face aggressive treatment by the Department of Education and Training, particularly through their Legal Division, who then involve themselves in every aspect of the student's education. We understand that you yourself defer to the Legal Division when you receive complaints from families.

We expected more from you, giving your claims prior to the election that you would be making the education of students with disabilities a priority. Their physical, psychological and educational suffering continues.

It is clear that students with disabilities will continue to be unable to attend school supported, safely, or at all while you are Minister. This has been very disappointing for those who work tirelessly to support these children.

Regards



Melanie Muir

Chairperson, Disability Advocacy Victoria

14 March 2018