

Inquiry into the state education system in Victoria

In keeping with the terms of reference this submission centres around;

1. the immediate and long term negative impact that past and current policies and processes have on Autistic students without an intellectual disability, and
2. the immediate and long term impact that negative racial profiling, through structural racism and individual racial biases, have on individual First Nation's students.

Recommendations Overview (*best practice examples are referenced at the conclusion of this document*)

- *Schools*

- ✓ Adopt the '*science of learning*' teaching model, based on the existing scientific consensus around basic cognitive principles and being able to connect these principles to practical implications for the classroom.
- ✓ Implement mental wellbeing resources into mainstream lessons, provided through the Australian Curriculum and Assessment Reporting (ACARA), as a holistic approach to mental health and wellbeing education with the aim to normalise conversations.
- ✓ All schools to embed sensory safe spaces, such as sensory safe classrooms, and introduce interoceptive skills for the mental wellbeing of Autistic students without an intellectual disability. This should include individual interoceptive support plans, activity plans and self-regulation scales.
- ✓ Implement a range of multisensory interactive learning technologies, including video-modelling, in special schools to promote communication and enhance student learning. This will also enhance student learning by focusing on what they can do, rather than focusing on what they cannot, such as handwriting.
- ✓ Implement compulsory quality and safe guard regulatory processes for teachers and therapeutic staff working with students with neurodevelopmental disabilities; including establishing a dedicated team of psychologists with a neuro-affirming approach.
- ✓ Consider reducing the number of hours for face-to-face teaching with students with a disability in special schools to minimise risk of burnout leading to unsafe environments.
- ✓ Consider outsourcing complaints investigations to independent agencies servicing vulnerable communities to ensure genuine resolutions and accountability that will embed compliance and safe practices.
- ✓ Seriously consider the use of surveillance technology, including body-cam, in high risk settings such as special schools to ensure emotional and physical safety and promote safe environments and student wellbeing.

- *First Nations Students*

- ✓ Embed culturally safe assessments for all First Nation's student's to flag learning disabilities early and make referrals for urgent assessment of neurodevelopmental disorders for behavioural issues.
- ✓ Record and publish more detailed and reliable data on First Nations students; i.e part-suspension, disability.
- ✓ Attach accountability to Principal's individual performance management linked to the targeted outcomes for individual First Nation students to ensure genuine accountability and positive outcomes.

- ✓ Develop and implement a Teacher Koorie Education Support Officer program with a view to having a designated teacher placement in every classroom where there is a First Nation student. The designated teacher would undertake professional development to focus on providing cultural safety in the classroom.
- *Homeschool*
 - ✓ The Department of Education to implement permanent and long term education programs and provide, resources, facilities and technology that would support parents forced to homeschool individual students refusing to attend school due to the lack of support in schools and feeling unsafe.

Background

My son is 12 years old and is considered twice exceptional; a term meaning he is highly intelligent but has a severe pragmatic profile with exceptional challenges in *social pragmatic communication*. This means that he does not fit into the school system and when he is at school he feels both emotionally and physically unsafe. Currently, he refuses to go to school due to feeling unsafe. His Autism school disenrolled him earlier this year without any formal notification and before any negotiations and a resolution can be reached. Since then, the Department offered a range of inappropriate schools from which he can easily abscond and the thought of starting a different socially and environmentally challenging school caused my son further distress due to his struggles with adapting to change. Both the Department and his school are well aware of his individual challenges with adapting to change and absconding from schools in the past as it is embedded in his school history.

As an Autistic student without an intellectual disability, my son's interoception awareness is significantly impaired and has experienced significant challenges at all four of his schools; two mainstream schools and two special schools. Mainstream schools are exceptionally demanding in terms of overwhelming sensory, social and environmental challenges and with overall standards set to the neurotypical benchmark. Sensory safe Autism schools are tailored to accommodate students with an intellectual disability. This is a systemic problem evident through official targeted funding and formal enrolment processes which then influences how a student's functional needs in Autism schools are measured. *Intellectual Developmental Disorder* is a separate neurodevelopmental disorder to *Autism Spectrum Disorder (ASD)* as listed within the Diagnostic Statistical Manual-5, although some students may have a dual diagnosis.

From early on my son's triggers to his challenges around *social pragmatic communication* – a legitimate disorder and a key factor in diagnosing ASD - did not meet the Department of Education's disability framework. As a result, his legitimate triggers and impairment became obscured which led to viewing his severe challenging behaviours through a lens that focused on other factors around poor parenting and identifying and responding to risk factors around alleged child abuse, within the negative context of his Aboriginal background, rather than focusing on his legitimate neurodevelopmental triggers leading to behavioural problems. This is all too common when it comes to First Nation's families as evident in recent findings from the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with a Disability.¹ The first recommendation in respect to First Nation's people aims to deal with this very issue which is a genuine fact that currently exists.

My son's challenging behaviours with *social pragmatic communication* and his impaired interoception awareness were officially dealt with outside the context of a neurodevelopmental disorder and this was not consistent with how other students officially diagnosed with Autism Spectrum Disorder were dealt with when presenting with the same or similar behaviours. By focusing on other factors that centred around disciplinary action and the presumption of 'bad parenting'² rather than focusing and responding to the legitimate triggers relating to Autism, had only distracted from the real issue which led to ongoing trauma, communication breakdown with schools and ultimately school refusal. If this is

¹ [Final Report - Volume 9, First Nations people with disability | Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability](#)

² [fcdc 58-03 autism report.pdf \(parliament.vic.gov.au p.42\)](#)

happening to us, then using the balance of probability and evidence from the Royal Commission, it is likely happening to other First Nation families and others from marginalised communities. Our communities do not inherently have different needs from the broader community; but it is how these needs are often overlooked and perceived by others which exacerbates the issues and creates marginalisation. So in essence, the root of marginalisation often lies in the perception and treatment of our communities and individuals rather than inherent differences of our needs. It, therefore, underscores the importance of recognising and addressing these perceptions and biases to promote inclusivity and equity.

Issues

An unfair system is where people operating within a system are permitted to get away with things that people operating outside the system are not. Essentially, relevant frameworks, strategies, guidelines and tools already exist, however, none of these proved effective for my son due to individuals employed to implement these instruments failed to do so and without any individual accountability to ensure the needs and outcomes of individual vulnerable students are being met. I assert that my son's challenges primarily stemmed from an insufficient system for addressing the needs of students with Autism and subsequently from structural racism and individual racial biases.³

To understand the current issues, it's necessary to understand the issues of the past.

Initially, my son's first mainstream school and therapeutic staff believed my son's severe behavioural challenges were consistent with *Autism Spectrum Disorder*. But he was underdiagnosed and misdiagnosed due to the inability to access relevant assessments. At his second mainstream school, however, my son's symptoms around *social communication* and *rigid repetitive behaviours* were identified during his Department of Education's CELF-5 language and psycho-educational assessments, yet, these challenges were not attributed to Autism due to the Department's official strategy to exclude '*social pragmatic communication*'⁴ symptoms when assessing a student's eligibility for '*severe language disorder with critical educational needs*' or place any value to it being one of the critical factors in diagnosing *Autism Spectrum Disorder*⁵. Instead, these challenges were attributed to having a 'severe behaviour disorder' in other alternative contexts. Even so, the assistant principal at my son's third school, through her wisdom and better judgement, wrote a support letter specifically outlining in detail my son's challenges with 'social communication' so he can get access to appropriate supports through the NDIS. Later, through independent assessments, my son was diagnosed with Autism placing him in the severe Level 3 category for *social communication* and Level 2 for *rigid and repetitive behaviours*. Confirmation of the diagnosis was made by a forensic child psychiatrist and a behavioural paediatrician.

My son's severe behavioural challenges were never triggered by other alternative factors but were triggered by his challenges with *social pragmatic communication* in particular. He has been diagnosed with a severe pragmatic profile. One of his main challenges with this means he interprets language literally. For example, if you ask him if he can see the computer from where he is sitting instead of asking him if he can read and understand the graphics on the screen, he will say 'yes'. If you ask him if he heard you speaking instead of asking if he understood what you said, he will say 'yes'. His struggles with social pragmatic communication also means his language is egocentric and follows his own agenda and talks about his own interests, he has difficulty in understanding his own emotions and the emotions and perspective of others, difficulty with interpreting and responding to nonverbal cues, facial expressions, body language and gestures, difficulty with understanding abstract language, difficulty adapting his language for different social context and his inability to express himself due to his limited emotional vocabulary and indiscriminate *selective mutism*. These problems impact how certain behaviours develop and how they are they then perceived and neglected in the classroom. So when my son is experiencing social pragmatic communication challenges, along with his inability to feel and recognise his emotions due to this and his severely impaired interception awareness, it simply means he will often encounter sudden emotional outbursts or 'meltdowns' and

³ [Racism, Racial Discrimination and Child and Youth Health: Final Racism-full-technical-report.pdf \(vichealth.vic.gov.au\)](#)

⁴ [IACC Subcommittee Diagnostic Criteria - DSM-5 Planning Group | IACC \(hhs.gov\)](#)

⁵ [Psychiatry.org - What Is Autism Spectrum Disorder?](#)

abscond if he does not have the appropriate responsive supports or teaching approach. It also means teachers are less likely to make allowances for his behavioural challenges when they expect that he has the ability to change his behaviour and conform to rules.

Realistically, classroom teachers are not across the intricate details of assessment results or understand how challenges with *social pragmatic communication* may present, particularly when it is considered irrelevant during funding and enrolment processes. This implies and embeds a culture that having a severe pragmatic profile or a '*social pragmatic communication disorder*' – an official disorder - is not relevant or is not a serious disability with accompanying serious challenges that impact on participation at school. Instead, any such challenges are considered in the context of having a '*severe behaviour disorder*' stemming from other factors or subsequent or irrelevant mental health issues that distracted from my son's actual triggers causing his behaviour. This is evident from the Department's Program for Students with a Disability policies.

- *Program for Students with a Disability (PSD) Fundings*

The problem with excluding challenges associated with '*social pragmatic communication*' during internal funding assessments negatively impacts on targeted funding and enrolment into sensory safe Autism schools as funding is mostly targeted at students with an *intellectual disability*. In respect to the PSD funding model, basing Autism on the needs of students with an Intellectual Disability is tantamount to suggesting that a visually impaired student can see clearly because they are not hearing impaired. Think about that; doing this hinders directly on how the school community fully understand and responds to *Autism Spectrum Disorder* within its correct diagnostic context of it being a lifelong neurological differences in brain structure and functioning, categorised as differences in socialising, communicating, processing and perceiving⁷. To reiterate, ASD is not an intellectual disability.

This year my son was expected to go through the PSD funding review process to assess whether he is still eligible to receive the '*severe behaviour disorder*' funding that will ensure his enrolment into his Autism school throughout his high school years. But the PSD guidelines clearly indicate that it is a process he will inevitably fail since his behaviours can now be explained as Autism and with an accompanied core language score above 70. **The redundancy of this process embeds an alternative narrative around my son's functional needs which is extremely harmful to his wellbeing as he is not considered Autistic enough.**

Basically, the PSD funding process is stating that without an Autism diagnosis my son's challenging behaviours are so severe it is considered a '*severe behaviour disorder*' and therefore he needs targeted supports; but on the other hand, it's now stating that his behaviour is not in the context of his Autism diagnosis at all because he has a core language score above 70. Therefore, literally implying that intelligent Autistic students can easily adapt and change their behaviour, so as if to suggest that a diagnosis with Autism miraculously cured my son's severe adaptive challenges.

- *An embedded negative culture arose out of the PSD programs*

Autism Spectrum Disorder and *Social Pragmatic Communication Disorder* along with *Specific Learning Disorder* are legitimate disorders, not some 'part' disorders. As one would expect, these disorders meet the legal definition of '*disorder*' under the *Disability Standards for Education 2005 (Cth)*, S. 1.4, *Definitions; Disability; (f) a disorder or malfunction that results in the person learning differently from a person without the disorder or malfunction*⁹. A disorder is a disorder. It should not be up to the Department of Education and their teams of psychologists to pick and choose and justify which aspects of a legitimate diagnosis to a disability is relevant to that disability. Nor should they decide what particular challenges related to the disability is severe or not. They should also not be permitted to subjectively and irresponsibly attribute behaviours, consistent with the relevant diagnosis,

⁶ [Program for Students with Disabilities \(PSD\) | Victorian Government \(www.vic.gov.au\)](http://www.vic.gov.au)

⁷ [Kids Health Information : Autism spectrum disorder \(rch.org.au\)](http://rch.org.au)

⁸ [Program for Students with Disabilities guidelines \(education.vic.gov.au\)](http://education.vic.gov.au)

⁹ [Disability Standards for Education 2005 \(legislation.gov.au\)](http://legislation.gov.au)

to other potential causes outside their disability as this can be influenced by racial bias and through negative racial profiling. This is essentially what happened to my son.

Subjectively selecting only a few specific aspects as diagnostic factors for *Autism Spectrum Disorder* to determine the functional needs of individual students, clearly embeds a negative culture within the school system that changes the perception of *Autism Spectrum Disorder*. It therefore causes all sorts of additional challenges for Autistic students that impacts on their wellbeing. Making reasonable adjustments through; targeted funding, enrolment into Autistic schools where necessary and to ensure appropriate responsive approaches from teachers, must also be inclusive of Autistic students without an *intellectual disability*.

- [School psychologists breaching APS Guidelines and perhaps the Law](#)

It's one thing for the Department to put in place strategies that serves in the best interest of the Department but a whole other matter when psychologists eagerly endorse such inappropriate responsive approaches at the risk of harm to individual students. The Department's strategy, with full support and endorsement by psychologists, embeds a negative culture across the entire school system as school principals and teachers rely on expert advice and recommendation from psychologists to manage resources and student behaviour within schools. Yet the challenges with Autism and *social pragmatic communication* are systematically played down and incorrectly dealt with as negative behaviour or more specifically, a '*severe behaviour disorder*'. This assumption implies that a student living with a neurodevelopmental disorder can, and therefore should, control or overcome their challenges to meet the neurotypical benchmark.

Psychologists are trained to be fully aware of the imminent risks to the mental health of neurodiverse students and the implications when working within school environments as clearly set out within the Australian Psychology Society guidelines; "*The framework for effective delivery of school psychology services: a practice guide for psychologists and school leaders*¹⁰" and the "*Ethical guidelines for working with young people*¹¹". Psychologists would also be fully aware of the number of laws and government and industry regulations around delivering a basic standard of healthcare to students through their registration process with the Australian Health Practitioner Regulation Agency (AHPRA).

All therapeutic support staff and teachers should be across the "*National Guidelines for supporting the learning, participation, and wellbeing of autistic children and their families in Australia*¹²" and both national and state *Aboriginal Health Strategy*, particularly the principals and definition around *cultural safety*¹³ which clarifies, "*Cultural safety is determined by Aboriginal and Torres Strait Islander individuals, families and communities.*" My son and I do not feel culturally safe at schools. Nor does my son feel safe as an Autistic student. Genuine embedded accountability is needed.

- [PSD Funding Review Report 2016](#)

The Department's PSD funding review justified that targeted funding to students with Autism should only target those with a *competent score of two standard deviations or more below the mean* in both adaptive behaviour and language skills with a core language score below 70. If a student meets the standard for only adaptive behaviour, for whatever reason, they may qualify for the *Severe Behaviour Disorder* (SBD) funding, however, the PSD funding guidelines state that the student must not be diagnosed with *Autism Spectrum Disorder* that would explain their behaviour.

The same review commissioned the Murdoch Children's Research Institute (MCRI) to analyse the functional needs for students with *Autism Spectrum Disorder*¹⁴ which basically highlighted that Autistic students with an *intellectual disability* and those high functioning Autistic students from a low socio-economic background and marginalised societies would be more suited for targeted support.

¹⁰ [framework-delivery-school-psych-services-practice-guide.pdf \(psychology.org.au\)](#)

¹¹ [Handout-6-Ethical-guideline-young-people.pdf \(afccnet.org.au\)](#) (Australian Psychological Society)

¹² [About the Guideline | Supporting Autistic Children Guideline \(autismcra.com.au\)](#)

¹³ [Australian Health Practitioner Regulation Agency - Aboriginal and Torres Strait Islander Health Strategy \(ahpra.gov.au\)](#)

¹⁴ [\(PDF\) Approaches to the provision of educational support for children and young people with additional health and developmental needs Autism Spectrum Disorders Centre for Community Child Health \(researchgate.net\)](#)

“Thus, socioeconomic status acts as a protective factor for the development of children and young people with an ASD, and existing health inequalities between those with low and high socioeconomic status are likely to widen. This indicates that greater early intervention and support for children and young people with low socioeconomic status is warranted.”

- *Disability Inclusion Plan and Structural Racism*

Keeping in mind the MCRI report, the recent shift in the Department of Education’s Disability Inclusion Plan aims to address all disabilities to ensure to capture those students who are not officially diagnosed with a disability. Just as it is with the PSD program, the Disability Inclusion Plan is based on the World Health Organisation’s (WHO) International Classification of Functioning Disability and Health (ICF) and *Disability Standards for Education 2005 (Cth)*. In theory this looks promising only for the potential risk of embedding negative racial profiling and then being able to officially point to the list of *‘factors that may impact on a student’s achievement, engagement and/or wellbeing’* that may explain a student’s individual challenges within the school environment outside the context of Autism Spectrum Disorder, causing a distraction from the student’s actual challenges. This is exactly what happened to my son.

The category *‘factors that may impact on a student’s achievement, engagement and/or wellbeing’*, or any other factors, should only be used to inform a student’s Disability Inclusion Profile to indicate a greater risk to the student not receiving adequate support. It must not be used to justify the severity or the disability itself and it certainly should not distract from the functional needs around a student’s individual challenges, such as challenges with *social pragmatic communication*.

- *Disability Inclusion Profile*

In theory the student Disability Inclusion Profile¹⁵ questionnaire also looks promising, only for the fact that my son’s functioning around adaptive behaviours and language communication had already been justified by the Department as being explained as having a *Severe Behaviour Disorder*. This came about after analysing his CELF-5 language and adaptive behavioural assessments conducted by the Department and by attributing his challenges to *other factors* which has nothing to do with his symptoms with *Autism Spectrum Disorder* or his severe challenges with *social pragmatic communication* given that his CELF-5 competent language score places him above the standard with a core language score above 70. This is all embedded in his school history with the critical point being, if my son does not meet the existing PSD funding criteria for *Autism Spectrum Disorder* or *severe language disorder with critical educational needs*, nor the *Severe Behaviour Disorder* category due to his ASD diagnosis; then by logic, he is certainly not going to meet these categories within his Disability Inclusion Profile.

- *Identifying child abuse versus identifying Autism embedding Structural Racism*

So here’s the crux of the problem; basically, the only thing differentiating my son’s *Autism* challenges when compared with the Department of Education’s official list for *identifying and responding to abuse*, are his challenges with *social communication* and his severe *pragmatic profile*. Although a *social communication* category is included in the recent student Disability Inclusion Profile, it also officially includes *‘factors that may impact on a student’s achievement, engagement and/or wellbeing’* which is initially how my son’s behaviours were interpreted so that he received the PSD *‘severe behaviour disorder’* targeted funding. For my son, the social communication category seems irrelevant given the current opinions held by the Department, their psychologists and teachers about my son. Teachers are employed to teach and are not experts in having an acute awareness of the issues that severe *social communication* challenges or other symptoms of Autism can have on a student. There is a genuine risk of teachers confusing certain behaviour’s that present in Autistic students and mistaking it as child abuse. The risk is even greater for First Nation students and others from marginalised communities, this is exactly what happened in my son’s case.

The table below highlights the risks when confusing some typical symptoms of Autism with some of the behavioural indicators of physical and emotional child abuse as outlined within the Department’s

¹⁵ [Disability Inclusion Profile: Policy | education.vic.gov.au](https://www.education.vic.gov.au/disability-inclusion-profile-policy)

publication *Protect: Identifying and Responding to All Forms of Abuse in Victorian Schools*¹⁶ and *online*¹⁷. I am not aware of a similar list to identify Autism symptoms being made widely available.

| Department: Identifying Child Abuse | Random list of Autistic challenges |
|--|--|
| speech disorders such as language delay, stuttering or selectively being mute (only speaking with certain people or in certain situations) | speech disorders such as language delay, stuttering or selectively being mute (only speaking with certain people or in certain situations) |
| poor social and interpersonal skills | poor social and interpersonal skills |
| lack of positive social contact with other children. | lack of positive social contact with other children. |
| delays in emotional, mental or physical development. | delays in emotional, mental or physical development. |
| delays in physical development | delays in physical development |
| speech disorders | speech disorders |
| behaviours that are not age-appropriate, e.g. overly adult, or overly infantile | behaviours that are not age-appropriate, e.g. overly adult, or overly infantile |
| wearing clothes unsuitable for weather conditions to hide injuries | wearing clothes unsuitable for weather conditions to hide injuries |
| overly compliant, shy, withdrawn, passive and uncommunicative | overly compliant, shy, withdrawn, passive and uncommunicative |
| fear of failure, overly high standards, and excessive neatness | fear of failure, overly high standards, and excessive neatness |
| unusually nervous, hyperactive, aggressive, disruptive and destructive to self and/or others | unusually nervous, hyperactive, aggressive, disruptive and destructive to self and/or others |
| no reaction or little emotion displayed when being hurt or threatened | no reaction or little emotion displayed when being hurt or threatened |
| indiscriminate acts of affection | indiscriminate acts of affection |
| excessive friendliness towards strangers | excessive friendliness towards strangers |
| difficulty adjusting to change | difficulty adjusting to change |
| disproportionate reaction to events | disproportionate reaction to events |
| low tolerance or frustration | low tolerance or frustration |
| extremely demanding, aggressive and attention-seeking behaviour or anti-social and destructive behaviour | extremely demanding, aggressive and attention-seeking behaviour or anti-social and destructive behaviour |
| aggressive behaviour | aggressive behaviour |
| violent/aggressive behaviour and language | violent/aggressive behaviour and language |
| habitual absences from school without reasonable explanation | habitual absences from school without reasonable explanation |
| overly compliant, passive and undemanding behaviour | overly compliant, passive and undemanding behaviour |
| unusual fear of physical contact with adults | unusual fear of physical contact with adults |
| violent drawings or writing | violent drawings or writing |
| poor sleeping patterns, fear of the dark or nightmares and regressive behaviour, e.g. bed-wetting | poor sleeping patterns, fear of the dark or nightmares and regressive behaviour, e.g. bed-wetting |
| Poor self-image and low self-esteem | poor self-image and low self-esteem |
| unexplained mood swings, depression, self harm or suicidal thoughts | unexplained mood swings, depression, self harm or suicidal thoughts |
| depression and anxiety and suicidal thoughts | depression and anxiety and suicidal thoughts |
| sudden decline in academic performance, poor memory and concentration | sudden decline in academic performance, poor memory and concentration |
| disengagement from school and/or poor academic outcomes | disengagement from school and/or poor academic outcomes |

¹⁶ [ChildSafeStandard5_SchoolsGuide.pdf \(education.vic.gov.au\)](#)

¹⁷ [Identify child abuse | Schools Vic](#)

- [Yoorrook Justice Commission – Child Protection and Criminal Justice Hearings](#)

The Yoorrook Justice Commission¹⁸ currently running in Victoria has heard from a number of experts in relation to issues that contribute to the overrepresentation of Aboriginal children involved with child protection and the criminal justice system. Medical practitioners raised issues around observing some first nations children presenting with behaviours consistent with a neurodevelopmental disability and the barriers in accessing therapeutic assessments¹⁹. But the Department of Education conducts assessments for high risk students all the time. The Department of Education conducts language and psycho-educational assessment's for students exhibiting significant challenging behaviours, but unfortunately, students are only diagnosed with a neurodevelopmental disorder if the student has an *intellectual disability* or a *severe language disorder with critical educational needs*; meaning having a core language score three deviations or more below the mean. If a student doesn't meet this set criteria then their behaviour will be considered in the context of other factors and may not receive the necessary reasonable adjustments they may require to remain engaged with school.

The Yoorrook Justice Commission hearings have revealed that about 60% of child protection notifications for Victorian first nations families are unsubstantiated, which would include the reports that schools made on us. The acting associate secretary at the Department of Families, Fairness and Housing (DFFH), ██████████, acknowledged that racial bias and racism is a contributing factor to the overrepresentation of First Nation children in the child protection system. He asserts there needs to be a whole-of-government commitment and input from multiple Department's to reduce the rates of First Nation children being removed from their families²⁰. He mentioned that a majority of notifications were predominantly coming from educators and schools²¹. So, here we have a senior executive of a Department that frequently removes First Nation children from their families, seemingly attributing this phenomenon to factors within the Department of Education. Then the Department of Education attributes this phenomenon to 'other factors' whilst embedding the exclusion of '*social pragmatic communication*' from official internal assessment processes and targeted funding allocation. To his credit, ██████████, suggested there should be a focus on helping mandated reporters, such as schools, understand how to differentiate between a child who is in need of protection and a child who needs some supports. But the table above demonstrates how it could be difficult for a teacher to distinguish child abuse from Autism due to existing official guidelines. The risk is far greater for First Nation's students, as ██████████ makes the point clear when you factor in potential racially biased attitudes and Dr ██████████'s point that First Nation's students do not have access to culturally safe neurodevelopmental and psychological assessments.

To reiterate, the category '*factors that may impact on a student's achievement, engagement and/or wellbeing*' should only be used to inform a student's Disability Inclusion Profile to indicate a greater risk of the student not receiving adequate supports. It must not be used to justify the severity or the disability itself and it certainly should not distract from the functional needs around a student's individual challenges, such as challenges with *social pragmatic communication*, which for marginalised students can be confused as child abuse. My son displayed symptoms aligned with *Autism Spectrum Disorder* and *Specific Learning Disorder* and was later officially diagnosed with both disorders but he currently does not meet any funding criteria under the current PSD funding model and nor will he meet it under the Disability Inclusion Plan because there is no embedded system to understand how to differentiate between certain behaviours aligned with child abuse and disabilities.

- [School Wide Positive Behavioural Support Program \(SWPBS\)](#)

My son's interception awareness is severely impaired which impacts on his ability to self-regulate his emotions that he cannot sense naturally. *"If someone does not recognise the signals for an emotion, they are not able to respond to it. This can result in anger becoming rage, sadness becoming distress and so on. Other people can perceive this as dysregulation or a lack of emotional*

¹⁸ [Home - Yoorrook Justice Commission](#)

¹⁹ [Criminal justice system hearing - Day 9 - Yoorrook Justice Commission](#)

²⁰ [Systemic racism persists in Victorian child protection system Yoorrook Justice Commission hears | Victoria | The Guardian](#)

²¹ [Child protection system hearing - Government and departmental day 8 - Yoorrook Justice Commission](#)

maturity. Regardless of age, the development of interoception can slow down or even stop for autistic people. It is not known why this happens, although it may be due to a self-protection mechanism associated with trauma. Many autistic people experience trauma, and this may halt or lower their interoceptive awareness."²²

Misunderstanding a student's functional needs and ability creates a further risk to student wellbeing just as it has done with my son through the School Wide Positive Behaviour Support Program (SWPBS)²³. The program is based on rewarding good behaviour to encourage positive behaviour. Positive Behaviour Support (PBS) emerged from Applied Behaviour Analysis²⁴ (ABA) in the 1980s. While both approaches are based on learning theory, PBS places a greater emphasis on being person or family centred.²⁵ In general, the Positive Behaviour Support programs are delivered by highly trained and qualified Behavioural Therapists through the NDIS and are regulated professionals under the NDIS Quality Safeguards Commission Positive Behaviour Support Capability Framework²⁶. Teachers are not regulated Behavioural Therapists. Different teachers respond differently to different individuals and in different situations and it is definitely not delivered as a person or family centred approach. Even if it were, the Department of Education has made it clear from their embedded processes that ensures '*social pragmatic communication*' difficulties should be dealt with as being a '*severe behaviour disorder*'.

At school my son seldom received reward points causing him to feel like a failure. I raised the issue as far back as Prep after my son complained he was often overlooked for reward points and awards which made him feel he was not good enough. It also caused him to feel a sense of humiliation amongst his peers. My son was always encouraged to behave to a neurotypical standard so that he could receive reward points otherwise he had to go to '**Thinking Club**' during his lunch break to think hard about his behaviour. He was 5 years old. At age 6 years he was suspended.

At my son's Autism school, the SWPBS program is used to reward positive behaviour by literally punishing bad behaviour. This response cost is a punitive approach that presents a high risk of psychological, emotional and/or social harm and considered unacceptable under the NDIS position statement²⁷ to understanding positive behaviour support in compliance with the NDIS Positive Behaviour Support Capability Framework. The school's program provide students with set 'choose minutes' at the start of the day with the objective that students must behave well during the day in order to keep their 'choose minutes' or else lose them. The student can use the minutes they are left with on a fun activity of their choice. My son raised concerns about frequently losing 'choose minutes' for things which relate to his challenges with Autism. My son felt confused, angry, accompanied with a sense of hopelessness and he would become depressed.

When teachers misunderstand how a neurodivergent brain functions a student could feel that they have been dealt with unfairly because the teacher's expectation of the student's behaviour is typically measured by the benchmark set for student's without a neurodevelopmental disorders or only make allowances for students with an intellectual disability. A student living with a neurodevelopmental disorder struggles to process information and may struggle to verbally express their needs and have an inability to self-regulate their emotions. Unfortunately, teachers usually recognise the inability to self-regulate emotions as being a '*Severe Behaviour Disorder*'. The impact of not recognising and responding appropriately to challenges with *social communication* as a disorder in the context of legitimate neurodevelopmental disorders is tantamount to child abuse. Whenever my son was unable to self-regulate his emotions at schools, there were times when the response amounted to using coercive control, making threats and intimidation, using excessive force to physically restrain my son and deployed other restrictive practices that resulted in causing him trauma. The negative experiences embedded into his limbic system which has had lasting emotional impact. He has grown

²² [Interoception and mental wellbeing in autistic people \(autism.org.uk\)](https://autism.org.uk/interception-and-mental-wellbeing-in-autistic-people)

²³ [Behaviour – Students: 5 School-wide positive behaviour support framework | education.vic.gov.au](https://www.education.vic.gov.au/behaviour-students/5-school-wide-positive-behaviour-support-framework)

²⁴ [Position Statement on Therapies and Interventions, Updated July 2022 - Reframing Autism](https://www.ndis.gov.au/position-statement-on-therapies-and-interventions)

²⁵ [Positive Behaviour Support: autism therapy | Raising Children Network](https://www.raisingchildrennetwork.org.au/positive-behaviour-support)

²⁶ [The Positive Behaviour Support Capability Framework | NDIS Quality and Safeguards Commission \(ndiscommission.gov.au\)](https://www.ndis.gov.au/quality-safeguards-commission/positive-behaviour-support-capability-framework)

²⁷ [Position Statement –Practices that present high risk of harm to NDIS participants – Updated July 2023 \(ndiscommission.gov.au\)](https://www.ndis.gov.au/quality-safeguards-commission/position-statement-practices-present-high-risk-harm-ndis-participants)

a natural mistrust towards teachers, which contributed to secondary psychological problems and school refusal.

- *Student's unmet needs a contributing factor to school refusal*

My son's functional needs in communication have been assessed at school and he is viewed as having the language ability within the range with his PSD funding application assessment report stating,

"therefore [my son's] severe behaviour cannot be accounted for by a severe language disorder".

Since then, my son had undergone an independent language assessment with the same and similar results, however, his results were more accurately interpreted as having a severe pragmatic profile related to his severe '*social pragmatic communication*' deficit. His overall core and expressive language results are in the borderline/mild impairment range. Without appropriate supports this impacts on his behaviour and functional ability at school. As one teacher and parent points out in the recent report from the Senate Education and Employment Reference Committee on *The national trend of school refusal and related matters*²⁸;

"if a child with a disability is not coping at school, you will see stress behaviour. It is a sign that there is an unmet need."

Contributing factors to my son's behaviours were due to unmet needs. There are no inclusive safe spaces for Autistic students without an intellectual disability who live with severe *social communication* and rigid, restrictive challenges. Reasonable adjustments were not considered in respect to my son's borderline / mild impairment core language difficulties and severe '*social pragmatic communication*' challenges. His communication challenges manifest in various ways including; challenges in expressive language, understanding others' thoughts, feelings, and perspectives, difficulty with empathy and taking others' points of view, difficulty understanding and responding to social cues and nonverbal communication, negative reactions to sensory overload, a slow cognitive processing speed, strong resistance to change in routines or sudden changes, an intense focus on his own interests, needing to self-regulate by moving or pacing in order to process and communicate, yawning as a self-regulatory response (cooling down his brain), challenges with selective mutism and the inability to self-regulate his emotions.

I also hold concerns that teachers at my son's Autism school seem to struggle with some student's challenging behaviours which appears to impact on their own wellbeing. My son mentioned observing his teachers being run down by lunchtime and that in the morning they were often in a positive mood and spoke in a nice voice but by the afternoon they appear frustrated and often spoke in an angry voice. He claims he witnessed some teachers swearing when frustrated. There are usually four teachers in one classroom to attend to a small number of student's but my son mentioned they were mostly preoccupied with students with overt symptoms related to severe intellectual disabilities or those students with other more visible challenges. This creates confusion about my son's functional capacity as it is inadvertently measured against the standards of those more visible challenges rather than his individual severe invisible challenges despite the school being made fully aware of them.

My son's struggles with an impaired interoceptive emotional awareness, sensory processing and social communication have been viewed in a way that incorrectly assumes he has the capacity and ability to function to a higher standard and is therefore expected to adapt and control his emotions, unlike others.

- *Inappropriate use of restrictive practices to control behaviour and unprofessional behaviour by teachers*

There is an urgent need to create safe spaces that work for everybody which should not discouraging staff from working with students with a disability or discourage students from attending school. Many

²⁸ [The national trend of school refusal and related matters – Parliament of Australia \(aph.gov.au\)](https://aph.gov.au)

of the restrictive practices my son experienced in schools over the years causes physical and emotional harm²⁹ and probably could have been avoided if there was a better understanding of Autism and better training and consistency in how to appropriately respond to challenges. Contributing to my son's school anxiety is the disproportionate and inappropriate use of restrictive practices at school. In his Autism school the use of restrictive practices appears to be used as a general means to control behaviour. This includes at times using the little teachers rooms as seclusion rooms, fortified with unreachable door handles or by a teacher leaning heavily against the door to prevent voluntary exit. **When I am called about incidents involving my son it is significantly played down by focusing on the positive outcome instead of the incident itself.** It is not until after speaking with my son that details become more clearer and usually after he raises his own concerns.

I have been made aware of a few incidents involving the inappropriate use of restrictive practices to control behaviour at my son's Autism school. For example, an incident where a student was forcibly taken to the ground by several teachers and carried off to the 'seclusion room' for merely wanting to use a mini trampoline after being told that he could not. This clearly seems to be a disproportionate response to the behaviour. Concerning also is that mini trampolines are a form of therapy that offer a way for Autistic students to regulate their sensory system, develop coordination, balance, motor skills, while also fostering social communication and cognitive benefits. But it appears the school uses them as a reward only when the student has earned enough 'choose minutes' to choose an activity of their choice.

In incidents where trampolines are used as a therapeutic tool, my son claims he observed a severely intellectual and non-verbal student, who has limited movement in her ability, being placed on a trampoline as his two teachers jumped together so that the student could enjoy being bounced. However, the two teachers appeared to deliberately jump higher for their own enjoyment causing the student distress. As they continued to bounce together this caused the student's head to be wedged between the bounce mat and underneath the side barrier as the student was screaming. The teachers responded by swearing out loud but continued giggling uncontrollably as they blamed each other in jest for their abhorrent behaviour. My son said that he was overcome with emotions witnessing this incident and it caused him distress. From that moment onwards he developed a distrust towards the teachers and it was the first time earlier this year he told me he did not want to go back to school. I sent him back.

His distrust continued as he listened to teachers complain that the same student kept chewing her long hair. Chewing hair is a known self-stimming behaviour to help self-regulation. But the next day my son observed the student return to school with very short hair and described the teachers having an exhilarating reaction. This caused my son great distress as he has long hair himself and came home begging me not to cut his hair if teachers ever asked, which is how I became aware of the situation. I had to reassure him and said that if a teacher asked me to cut his hair I would insist they cut their own hair first to emphatically illustrate the inappropriateness behind such an unjust request. I would expect a school for Autistic students were more compassionate about students chewing their hair for stimming and self-regulation; or at least find alternative solutions rather than complain about it in front of other students and then show exhilaration after hair had been cut off. One can only hope that the parents didn't actually feel compelled to cut their child's hair due to teachers complaining about it.

My son always feels he is never believed. I feel I am never believed when I raise issues. Raising concerns and issues with schools has become futile over the years as the system is structured so that a teacher's version of events is procedurally '**verified**' despite standards 1, 3 and 7 within *Victoria's Child Safe Standards*³⁰. There is no way to genuinely hold teachers to account when the practicalities around establishing facts and gathering evidence is controlled by the perpetrators in power that structurally disempowers students and their families. When you factor in structural racism and racial bias by individuals it becomes far worse for First Nations students.

²⁹ [Position Statement –Practices that present high risk of harm to NDIS participants – Updated July 2023 \(ndiscommission.gov.au\)](#)

³⁰ [CCYP | The 11 Child Safe Standards](#)

- *Accountability*

Accountability squarely lies with the Government which fosters and supports a system capable of justifying its lack of accountability. The Government is therefore complicit in maintaining an education system that rationalises not being able to take reasonable steps to address issues that impact negatively on the outcomes of vulnerable students.

The Government should prioritise ensuring genuine strong leadership in schools by addressing the authoritarian regime school principals enforce to avoid accountability through passive mass acceptance. The government should consider taking the School Wide Positive Behavioural Support program and direct it at principals instead of students. They should prioritise measuring the wellbeing and positive outcomes of both staff and students, particularly First Nations students, and linking these measurable outcomes to the performance management of principals in areas such as; implementation, capability development and compliance.

The Government's priority should include attracting and maintaining appropriate staff by;

- establishing regulatory standards and compliance linked to accountability
- ensure genuine independent oversight
- compulsory efficient and sufficient training linked to accountability
- embedding child safe standards into routine practice linked to accountability
- embedding essential and appropriate professional development opportunities
- embedding efficiency and a practical approach to time-management
- embedding wellbeing centred approaches and environments into the curriculum
- embedding science of learning strategies to teaching and resources
- embedding cultural safe approaches into teaching and classroom environments

Another priority should be to establish a more efficient and transparent complaints processes by implementing a system with genuine independent oversight through a balanced approach inclusive of advocacy groups supporting students with a disability and minority groups. Student's perspective should also be embedded as being 'verified' within systems. Serious consideration around the implementation for the use of technology such as video evidence in special schools. See *recommendations and links to best practice examples in table below.*

Inquiry into the state education system in Victoria

Recommendations and Best Practice examples

| No. | Recommendation | Best Practice Examples | Objective / Outcome |
|----------------|--|--|---|
| <i>Schools</i> | | | |
| 1. | Adopt the ' <i>science of learning</i> ' teaching model based on the existing scientific consensus around basic cognitive principles and then being able to connect these principles to their practical implications for the classroom. | <ul style="list-style-type: none"> ✓ Science-of-Learning Deans-for-Impact.pdf (cg.catholic.edu.au) ✓ Raising+the+Grade_final.pdf (squarespace.com) | Improve understanding on student's learning potential by understanding cognitive principals. |
| 2. | Implement mental wellbeing recourses into mainstream lessons provided through the Australian Curriculum and Assessment Reporting (ACARA) as a holistic approach to mental health and wellbeing education with the aim to normalise conversations. | <ul style="list-style-type: none"> ✓ Mental health and wellbeing V9 Australian Curriculum ✓ Children's Mental Health and Wellbeing Strategy - National Mental Health Commission | Promotes the normalisation of open dialogues and enables the implementation of practical strategies to monitor and gain a deeper understanding of factors affecting student well-being. |
| 3. | All schools to embed sensory rooms and interoceptive skills in the classroom for the mental wellbeing of Autistic students <u>without</u> an intellectual disability. This should include individual interoceptive support plans, activity plans and self-regulation scales. | <ul style="list-style-type: none"> ✓ Sensory Rooms and Equipment: Policy education.vic.gov.au ✓ Applying interoception skills in the classroom (education.sa.gov.au) ✓ Ready to Learn Booklet (education.sa.gov.au) ✓ Interoception and self regulation (studentwellbeinghub.edu.au) | Promotes and embeds a positive response to individual challenges and facilitates the unmet needs that may cause certain negative behaviours in students rather than responding to these behaviours through disciplinary approaches and restrictive practices. |
| 4. | Implement a range of multisensory interactive learning technologies, including video-modelling, and adaptive resources for students on the Autism Spectrum to promote communication and enhance student learning. This will also enhance student learning by focusing on what they can do rather than struggling with handwriting that may slow learning capabilities. | <ul style="list-style-type: none"> ✓ (PDF) Interactive Multi-Sensory Environments for Children with Autism Spectrum Disorders (researchgate.net) ✓ Frontiers Multisensory Interactive Technologies for Primary Education: From Science to Technology (frontiersin.org) ✓ Home 2eHub ✓ Multisensory Education and Communication — Marnebek School Cranbourne ✓ Moving on (altogetherautism.org.nz) | Facilitates better understanding of the minds of Autistic students that should not focus on deficits but rather their potential. Their potential should not be held back by delivering work in paper format but instead by engaging their senses through multisensory interactive technologies. |

| No. | Recommendation | Best Practice Examples | Objective / Outcome |
|-----|--|--|--|
| 5. | <p>Implement compulsory quality and safe guard regulatory processes for teachers and therapeutic staff working with students with neurodevelopmental disabilities.</p> <p>This should include safeguarding students in respect to Positive Behavioural Support and accountability to ensure best practices in restricting practices.</p> <p>Establishing a dedicated team of psychologists with a neuro-affirming approach is imperative to adequately address the unique requirements of neurodivergent students.</p> | <ul style="list-style-type: none"> ✓ The Positive Behaviour Support Capability Framework NDIS Quality and Safeguards Commission (ndiscommission.gov.au) ✓ Understanding behaviour support and restrictive practices - for providers NDIS Quality and Safeguards Commission (ndiscommission.gov.au) ✓ Position Statement –Practices that present high risk of harm to NDIS participants – Updated July 2023 (ndiscommission.gov.au) ✓ Supporting Autistic Children Guideline Autism CRC ✓ framework-delivery-school-psych-services-practice-guide.pdf (psychology.org.au) ✓ Handout-6-Ethical-guideline-young-people.pdf (afccnet.org.au) ✓ aps-code-of-ethics.pdf (psychology.org.au) ✓ A Neurodiversity-Affirming Approach: What Is It and How Can It Support Your Child(ren)? - Your Mind Matters | <p>To ensure the wellbeing of students by introducing genuine accountability and genuine independent oversight.</p> |
| 6. | <p>Consider reducing the number of hours for face-to-face teaching with students with a disability in special schools in the effort to minimise risks around burnout that create unsafe environments for students and staff. It would mean increasing staff levels to rotate shifts.</p> | <ul style="list-style-type: none"> ✓ Work Requirements — Teachers: Allocation of teacher work education.vic.gov.au | <p>Promoting the wellbeing of staff and students.</p> |
| 7. | <p>Consider the use of surveillance technology in high risk settings such as special schools to ensure emotional and physical safety and promote safe environments and student wellbeing.</p> | <ul style="list-style-type: none"> ✓ Understanding behaviour support and restrictive practices - for providers NDIS Quality and Safeguards Commission (ndiscommission.gov.au) <p>“This guide was developed for registered NDIS providers including specialist behaviour support</p> | <p>To promote safety and wellbeing of students and to ensure accountability in the use of restrictive practices and to clarify other student issues that may arise in special schools.</p> |

| No. | Recommendation | Best Practice Examples | Objective / Outcome |
|-------------------------------|---|--|---|
| | <p>NDIS outlines best practice considerations and safeguards when using surveillance technology with people with disability.</p> <p>Seriously consider introducing the use of bodycam worn by teachers in high risk settings such as special schools to ensure safety and accountability with the view of changing negative culture. i.e; checkout staff in supermarkets and police.</p> | <p>providers but may also be of interest to anyone who supports a person with disability.”</p> <ul style="list-style-type: none"> ✓ Coles introduces body-worn cameras to fight theft and violence in stores news.com.au — Australia's leading news site ✓ Body Worn Cameras (BWC) (police.vic.gov.au) | |
| 8. | <p>Consider outsourcing complaints investigations to independent agencies to ensure genuine resolutions and accountability to improve student outcomes. These independent agencies should possess real powers with the view of addressing complaints at the school level and higher to ensure genuine independent oversight for all vulnerable students, particularly for First Nations students.</p> <p>Although there are a number of external resolution processes available, by the time the process is exhausted internally, significant harm has already taken place.</p> | <p>It will be more beneficial and constructive to involve independent agencies early in the process, such as the Disability Service Commissioner and introduce new processes in collaboration with Aboriginal Community Controlled Organisations, such as VACCA or VAEAI.</p> <p>The Yoorrook Justice Commission made a range of recommendations for the Government to transfer decision-making power, authority, control and resources to First Peoples that can be adopted by the Department of Education.</p> | To ensure a more equitable and accessible process that would minimise the risk of potential or long-term harm and embed independent oversight and genuine accountability. |
| <i>First Nations Students</i> | | | |
| 9. | Embed culturally safe assessments for all First Nation's student's to flag learning disabilities early and make referrals for urgent assessment of neurodevelopmental disorders for behavioural issues. | ✓ Final Report - Volume 9, First Nations people with disability Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability | |
| 10. | Record and publish more detailed and reliable data on First Nations students; i.e part-suspension, disability. | ✓ Final Report - Volume 9, First Nations people with disability Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability | |
| 11. | Develop and implement a Teacher Koorie Education Support Officer program with a view to having a designated teacher placement in every classroom where there is a First Nation student. The designated teacher would undertake professional development to focus on providing cultural safety in the classroom and will work with KESO's, advocate for students, be a point of contact for parents and the community. | <ul style="list-style-type: none"> ✓ Similar to the Victoria Police PALO program. Aboriginal liaison officers Victoria Police ✓ Recommendation 231 of the Royal Commission into Aboriginal Deaths in Custody (RCIADIC) | To help ensure cultural safety and consistency across classrooms that aim to meet the needs and lead to better outcomes for Koorie (First Nation) students. |

| No. | Recommendation | Best Practice Examples | Objective / Outcome |
|----------------------|---|---|--|
| 12. | Attach accountability to Principal's individual performance management linked to the targeted outcomes for <u>individual</u> First Nation students to ensure genuine accountability and enshrine keeping with the Agreement of Closing the Gap targets in Education. | Although outcomes are already linked to Principals and schools, this needs to be tied to the outcomes of <u>individual</u> First Nation students and measured by the student's outcome to ensure individual accountability. | To help ensure cultural safety and consistency across schools that would lead to genuine accountability in respect to embedding positive outcomes for First Nation students. |
| <i>Homeschooling</i> | | | |
| 13. | The Department of Education to implement permanent and long term education programs and provide, resources, facilities and technology that would support parents forced to homeschool individual students refusing to attend school due to the lack of support in schools and feeling unsafe. | There are no specific examples of best practice except perhaps the Virtual School Victoria . This school <u>does not cater for the long term</u> and has limited enrolment placements. | Accountability needs to rest on the Department of Education to ensure that student's not supported in school are sufficiently supported at home. |
| | | | |