



# New Zealand Speech-language Therapists' Association Submission to Parliament regarding The Education and Training Bill (number 193-1)

14 February 2020

New Zealand Speech-language Therapists' Association (NZSTA) welcomes this opportunity to contribute to the select committee process regarding Education and Training Bill 193-1. We also would welcome the opportunity to provide an oral submission in person.

Speech-language therapists are qualified experts in social communication, literacy, language, behaviour, feeding, and swallowing. This includes early communication development (e.g., pre-intentional and pre-symbolic communication) that develops before the emergence of spoken language and non-speech modes of communication including augmentative and alternative communication (AAC).

Our 900+ members are in a position to witness breaches in the rights of children regards to access to education, communication access, and nutrition (in the case of swallowing and feeding difficulties).

Our skills include assessment and interventions for those with developmental and acquired difficulties with speech, language, and/or communication which may arise for a range reasons.

Speech-language therapists' training enable them to accurately ascertain a person's profile of skills in speech, language and communication. We also are well positioned to understand how such challenges might impact on a person's ability to participate in their daily life, including social and learning settings.

Speech-language therapists are experts in designing interventions which they may carry out themselves, or support others to implement. Many, but not all, speech-language therapists in New Zealand are members of our national professional body: New Zealand Speech-language Therapists' Association (NZSTA), and this submission has been authored by NZSTA members after consultation with the membership and expert advisers.

Speech-language therapists provide a highly specialised service to a large number of children across many sectors, including education, health, justice, and social development. **We strongly support the human right of communication.**

**We support the Government’s initiative to update and improve the provision of education in New Zealand.** The United Nations Convention on the Rights of the Child and the United Nations Convention on the Rights of Persons with Disabilities sets out obligations for signatory nations to uphold. The changes brought about by this Bill must enable the enactment of the rights of all children and young people in Aotearoa New Zealand. **It is unclear if this bill goes far enough to ensure that these rights will be upheld and our obligations as a signatory nation will be met.**

**We support the NZ Disability Strategy stance** that *“the silos between different supports and services [should be] removed to provide a coordinated approach to enable us to achieve our potential”*.

The NZSTA values the relationships we have with the Ministries of Education, Health, Social Development and Justice.

**We support publicly funded, high quality evidence-based speech-language therapy service** (including swallowing and feeding intervention) and promote child and whānau centred practice.

## **Key concerns:**

It is our position that the following are essential considerations for any education law changes:

- Social communication, speech, and language needs of New Zealand students
- Feeding and swallowing needs of New Zealand students
- Language and literacy instruction and support
- Communication access across all aspects of education (e.g., educational provisions, dispute panels, consultation with key stakeholders, disciplinary procedures, school board procedures, etc.)
- The essential value of the people who make quality education possible, including the students themselves, their whānau, in-house and visiting specialists, teachers, support staff, school leadership, and volunteers
- The evidence base regarding how to best support and develop language, literacy, and communication within our education system
- Statutory powers, dispute mechanisms, and funding mechanisms to ensure that rights are protected and able to be upheld

## **Key messages:**

### **1 Honouring and meeting our responsibilities to Te Tiriti o Waitangi**

Our places of learning should confidently demonstrate manaakitanga and uphold Tikanga Māori. In all of our schools and places of learning, Te Reo Māori should clearly be treated as a taonga. Students, their whānau, and educators should feel culturally safe at all times.

Recognising and effectively addressing speech, language and communication needs is essential for enabling the effective communication required for students and their whānau to achieve tino rangatiratanga (self-determination) so they are in a position to advocate for themselves.

In addition to the many other important considerations, we would like to highlight the importance of the following:

- Striving for assistive technology and digital tools to be available and accessible in both English and Te Reo Māori. This may require the development of resources, including appropriate speech synthesis voices and software.

- As we continue to develop technology to support communication and literacy in our schools, we need to ensure that students can access tools and technology in both Te Reo Māori and English. A bicultural approach to technology and resource development is important.
- Increased access to specialists who are bilingual in Te Reo Māori and English. This may require long term investment and workforce development.

## **Meeting these responsibilities is also alignment with United Nations obligations**

Specifically, United Nations Convention on the Rights of the Child’s fundamental principle number four:

*Children have a right to have their say in decisions that affect them and to have their opinions taken into account.*

And Article 19 of the Universal Declaration of Human rights:

*Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.*

## **2 Definition of ‘receiving education’ and ‘special’**

With reference to clause 33 (1):

*“students who have special educational needs (whether because of disability or otherwise) have the same rights to enrol, attend, and receive education at State schools as students who do not.”*

We believe the connotations of the word **receive** inadvertently implies that education is a passive experience that can be done to a student. We suggest that alternative wording be considered to better reflect the ultimate goal of ensuring that students, including those with additional educational needs, are supported to actively participate in high quality, meaningful education.

It is our view that all students should be legally entitled to enrol, attend, and actively participate in an **appropriate, meaningful, and high quality education** with access to staff who have the necessary skills, training, and resources to address all of their learning needs, including speech, language and communication needs.

Additionally, the word **special** to refer to additional needs has become controversial, and in some groups offensive. The use of this word should be carefully considered following consultation with a wide range people with lived experience of disability and disability law.

## **3 Enrolment and full attendance for all students – clauses 32 & 33**

We strongly support enshrining into law the rights of all students to enrol and attend their local school for all the hours that it is open.

It is essential that this be a legally protected and enforceable right and that these rights are supported by legally binding obligations and responsibility within Education and other relevant government agencies to ensure that appropriate and adequate provision of resources.

**For this to be successful and to ensure that all children can access a quality education, we believe that the following is necessary:**

- Ensuring provision of sufficient resources, including staffing and training, are in place prior to a student arriving to school
- Ensuring that all schools can and do provide a high level of accessibility including physical access, **communication access**, and pastoral care
- Universal design needs to be proactively in place with regards to the buildings, the methods of teaching, the sensory experience, the level of staff training, and other considerations so that every school is prepared to welcome in all local tamariki and rangatahi, including students with additional learning needs.
- The provision of specialist input needs to reflect evidence practice at all three tiers of intervention (Ebbels, 2019)
  - At a **universal** level, the speech, language, and communication needs of all children must be met. Speech-language therapists at this level may provide training and support so all staff understand how to recognise and address needs.
  - Some students may require **targeted** support (meaning that additional training and support from speech-language therapists may be required to enable those around the students in their own context are equipped to know how to meet the student's needs).
  - A smaller group of students may require direct **specialist** input from a speech-language therapist who can design and deliver (in partnership with others) bespoke interventions informed by tailored evidence-based assessments that have identified the profile of strengths and needs of the student.
- The legislation needs to ensure that all who require speech-language therapy what is needed for the intervention to be effective. Specialist support needs to be timely and available for all ages. This support should be consistent with the 2019 Child and Youth Wellbeing Strategy which states that

*“The best outcomes occur when there is quality early support - early in the life of the child or early in the life of the problem.”*

**Proposed limitation on part time enrolment**

While we strongly support reducing any loopholes that could be used to restrict enrolment of students with additional learning needs, we are concerned that the proposed non-renewable 6 month limit does not reflect the realities for some students (e.g., a subset of students with high anxiety, trauma, high health needs, autism spectrum disorder, etc.)

Based on our clinical experiences, 6 months would be excessive for most students, yet insufficient for others. Furthermore, the assumed time pressure could be counter productive in some cases.

Part time enrolment should be driven by the needs of the child and there needs to be an appropriate mechanism for effective, solution focused, decision making. This needs to be student and whānau driven, informed by specialists, and not exclusively initiated by school leadership.

Additionally, transitions are not the only time a student may need part time enrolment.

A team approach is typically necessary to protect the rights of students in these situations (e.g., the child, whānau, school staff, private and public specialists, medical professionals, etc.). There should not be incentives encouraging part time enrolment.

## 4 Physical force – clauses 95-97

We agree that clarity around the use of force/restraint and the continued prohibitions regarding seclusion are needed.

We agree that transparent data collection at school, regional, and national levels is essential.

Reporting mechanisms to families and whānau, like all essential communication, needs to be accessible to a family's language, language abilities, literacy level, and communication preferences.

We strongly agree that the use of physical force should be minimised and all procedures must be clear, interpretable, transparent and coupled with effective training protocols.

There is **significant concern within the disability sector that this bill does not go far enough** to protect the most vulnerable of students, including those with communication difficulties.

The language around emotional harm is particularly concerning as imprecise legal wording opens the door to creating confusion and high risk of overuse of force.

**Our members' professional experience, coupled with local and international research, indicate that the following are essential to prevent and reduce the use of physical force and restraint:**

- Effective communication systems (both how students communicate with others and how we communicate with students) need to be in place, properly used, and accessible. This may include assistive technology, sign language, visual supports and other resources that need to be developed, kept-up-to-date, and within reach for many students with additional learning needs.
- Sufficient time for students to process information in the moment and build trusting relationships over time.
- Appropriate training in how to read/interpret student communication/behaviour and in how to most effectively communicate all students' in a school.
- Expectations for individual students' learning and behaviour that are appropriate for their current abilities.
- Sensory and social needs are well understood and appropriately accommodated.

**Any rules around physical force/restraint should take into consideration:**

- That some students' communication skills are at the pre-symbolic or pre-intentional communication level. Appropriate touch is essential for this group of students to effectively communicate and understand the world around them.
- Some students with vision and/or hearing loss also often require physical touch as part of their communication system.
- Some students seek and require sensory experiences including deep pressure, being wrapped, human touch, in order to regulate their emotions and physiological state. This is necessary for these students to be fully available for learning and social engagement.
- Some forms of touch that have previously been considered therapeutic and educational have since been deemed to be unsafe practice and should not be used.
- There are situations in which techniques and/or equipment that may need to temporarily limit a student's mobility for therapy, self regulation, medical, feeding, toileting or other purposes. This is a real time of vulnerability for students and staff. To prohibit such activities outright would limit access to full-time education, yet without appropriate systems in place, there is significant risk of inappropriate, distressing, traumatising, or abusive use of touch.

**Key points include:**

- Clear policies, ongoing monitoring, and appropriate training is essential for these activities to be done appropriately
- Student voice (including non-speaking forms of communication) is essential for physical contact to be done in an appropriate, safe, non-traumatising way. Whenever possible, consent should be obtained before and during such interactions.
- We cannot assume that children will be able to report violations to policies. Other mechanisms must be in place to monitor practice.
- These concerns relate to situations where a student's movement may be temporarily restricted (e.g., changing tables, hoists, mobility equipment (e.g., standing frames), delivery of medicines, application of sunblock, vehicle harnesses/seatbelts, tube feeding, use of ventilators, etc.). These techniques or equipment could potentially be used in an abusive or non-abusive fashion, however having access to appropriate guidance, supervision, and training can significantly reduce the risk of this.
- Informed consent of which situations force might be applied should be provided in advance and in a format that the student can understand whenever possible.
- Consultation with people with lived experience and their whānau is essential to getting this section of the law right.

## **5 Implications for children with feeding and swallowing difficulties**

One common barrier to full time school attendance is feeding and swallowing difficulties. These difficulties can impact the nutritional intake of children (food and fluids). This includes children with paediatric feeding disorder (PFD), ARFID (Avoidant Restrictive Food Intake Disorder), and dysphagia. Some students require tube feeding during the school day.

Feeding and swallowing difficulties can be successfully and safely addressed in the school setting if proper supervision, staffing, training, and resources are provided. A well fed child is in a better position to access learning.

Feeding and swallowing difficulties relate to other aspects of this bill, specificity:

- Use of physical force / restraint – force feeding is something that must be avoided at all times, but can accidentally occur without proper training, knowledge, technique, understanding, and if there is time pressure during meals.
- Child rights related to bodily autonomy to choose what to eat and drink without coercion, force, or judgment.
- Dispute panels – dispute can occur between families, medical teams, and school teams regarding how to best manage swallowing and feeding issues across settings.

### **International estimates of feeding and swallowing difficulties (United Kingdom's Royal College of Speech and Language Therapists - RCSLT):**

- 25-45% of typically developing children
- 31-99% of children with cerebral palsy
- 21-44% of children with neurodevelopmental disabilities
- 26-40% of children who were born prematurely

## **6 Standards and procedures related to School Boards and assignment of principals**

Effective, meaningful inclusion depends on the attitudes and skills of both School Boards and principals who hold significant power regarding decisions around disciplinary actions, behaviour management, and enrolment. Our colleagues who work in justice settings have identified that disengagement from education often begins when a School Board is first involved.

Many students will find it challenging to understand the complexities of the situation they are facing and express their own views clearly to others, and understand the outcome of any decisions made. Assistance must be provided to ensure that students and their whānau have the necessary support required to ensure they can fairly and equitably represent their views and participate in all discussions and decision making processes.

Many students have reported negative experiences of appearing in front of School Boards explaining that they have not understood the significance of the occasion and have struggled to state their own account of events clearly to adults they do not know without effective support.

As a result, many report that they did not participate in education past year 9 of High School. These are students with significant language and learning issues whose needs were not recognised or addressed earlier in their lives.

Some will go onto participate in Alternative Education courses, however without the specialist teaching required to enable them to address their underlying literacy and learning needs, these students often struggle to reach their potential. Improving access to appropriate services for these students so they receive early and specialised support is essential if they are to stay engaged in education and have the best chances in later life.

### **We believe that the minimum standards for these essential roles should include:**

- Basic understanding of neurodisabilities including developmental language disorders, dyslexia, autism spectrum disorders, cerebral palsy, foetal alcohol syndrome disorder, Attention Deficit Hyperactivity Disorder (ADHD), traumatic brain injury (including secondary to concussion), and cortical visual impairment, etc.
- Understanding of how behavioural presentations may mask underlying reasons including early trauma, care and protection experiences, and various neurodisabilities. These conditions may be missed and may also impact on how a child or young person may communicate when in front of a School Board.
- Ability to use non-specialised techniques for supporting communication accessibility for students who require them (and with training, use specialised techniques needed for a specific student)
- Knowing when to and how to seek specialist input -
  - The Bill states that School Boards are to consult students for their opinions, however we are concerned that if all students are to have the opportunity to provide their opinions effectively, then support to do so will need to be provided. Additionally, School Board members will need to have appropriate training and skills to interact with the students with communication disabilities.

Additionally principals need to have access to the most current evidence and science around best practice for developing and teaching language, social communication, and literacy skills so that principals can provide leadership around decision making on how these key skills are supported in a school.

## **7 Importance of sufficient resourcing**

We believe that for successful inclusion to become a universal reality in New Zealand, this education bill must go beyond enshrining the right to full time enrolment and attendance.

It is also necessary that our educational system is well resourced on an ongoing basis such that every school is in a position to welcome all children and provide what is required for meaningful, quality education. Mechanisms to flexibility adjust the amount and type of resourcing as needs change over time are also necessary.

Currently, our colleagues report that students, former students, whānau and the professionals who support them report that insufficient access to speech-language therapists is available. The students who do receive any speech-language therapy input, frequently report receiving very limited and many older primary, intermediate and high school students report barriers to accessing publicly funded services.

This Bill must ensure that those who require such input receive it (or decline it after an appropriate consent process).

Just like Te Tiriti o Waitangi obligations are woven into the fabric of everything we do, so should our preparations and ongoing support for learners with additional needs.

## **8 Dispute processes**

Similar to ensuring sufficient resourcing, we also strongly support the introduction of a system that addresses disputes and rights violations in an effective, flexible, and timely manner – however it is unclear if the proposed mechanisms in this bill are sufficient to meet this objective.

### **Dispute mechanisms need to address potential access barriers by providing**

- funded interpreters, including New Zealand Sign Language interpreters
- access to communication devices and vocabulary for people who rely on augmentative and alternative communication
- appropriate support for anyone with a communication or language impairment, including time to prepare with a trained support person
- accessible material explaining the procedures and what someone can expect what will occur in a given situation

### **Dispute processes need to be open to:**

- Students and their whānau
- Support staff, visiting specialists, and teachers who often are in a position to first witness areas of concern and need to feel secure in their right to safely report such concerns and violations of student rights
- Professionals who are experiencing pressure to violate their professional code(s) of ethics

## **9 Monitoring systems and organisations (e.g., Education Review Office)**

We also urge that future monitoring systems explicitly be tasked with observing and documenting how well we are meeting the needs of students with additional learning needs, including whether

their communication, language, and literacy skill development is being appropriately supported and provided. These are essential these skills that are fundamental to all aspects of education.

In other words, the system needs to have mechanisms to monitor its own performance, including how well it is upholding the rights of children and providing an equitable education to all students, including students with additional needs. The onus cannot solely be on a dispute or compliant processes. We want to prevent the need for such processes to arise whenever possible.

We also urge that this bill considers how funding requirements will be monitored as population demographics shift so that students can trust that their schools are well prepared to serve them well now and in the future. Funding must consider all stages of education from early childhood through to the end of High School, including transition into adult services for some students.

## **10 Consultation with people with lived experience of disability in the education sector**

This submission is informed by our profession's contact and close working relationships with a wide range of young people with disabilities and learning differences.

That said, this is no substitute for appropriate consultation with people with lived experience of the education sector, including current students. Child voice is essential to getting this right, including the insights and stories of former students.

### **This submission was developed with contributions from:**

The Executive Board and members of the New Zealand Speech-language Therapists' Association

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- 2019 New Zealand Child and Youth Well-being Strategy <https://childyouthwellbeing.govt.nz/resources/child-and-youth-wellbeing-strategy>
- 2020 – Dr Ian Lambie’s discussion paper on brain and behaviour : “What Where They Thinking?” <https://www.pmcsa.ac.nz/2020/01/29/what-were-they-thinking-a-discussion-paper-on-brain-and-behaviour-in-relation-to-the-justice-system-in-new-zealand/>
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  - 12 to 15 percent of 14,500 primary and secondary school students experienced a communication impairment (McLeod & McKinnon, 2007)
  - Children with language impairments were rated twice as likely to show externalised, internalised, and Attention Deficit Hyperactivity (ADHD) behaviours compared to children without language impairments (Yew et al., 2013)
  - A disproportionate number of young people not in education, employment or training have communication disability (Lanz, 2009).
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