



EDUCACIÓN PARA TODXS,
PERSONAS CON Y SIN DISCAPACIDAD,
EN ESCUELAS INCLUSIVAS

**SUBMISSIONS OF THE REGIONAL NETWORK FOR INCLUSIVE EDUCATION TO THE
COMMITTEE ON THE RIGHTS OF PERSONS WITH DISABILITIES CONCERNING GENERAL
COMMENT NO. 6 ABOUT EQUALITY AND NON-DISCRIMINATION**

The Regional Network for Inclusive Education in Latin America (Red Regional por la Educación Inclusiva Latinoamérica), a coalition of 14 organizations and networks¹ of persons with disabilities and human rights organizations from seven different countries in Latin America (Argentina, Brazil, Colombia, Chile, Paraguay, Perú, Uruguay) that advocate for the right to inclusive education, presents this submissions to the Committee on the Rights of Persons with Disabilities in relation to the First Draft of General Comment no. 6 about equality and non-discrimination.

The purpose of this document is to suggest the inclusion of some important issues concerning evaluation and certification of students with disabilities in the analysis of article 5 in connection with article 24 of the Convention (paragraphs 70-72 of the draft). The Regional Network for Inclusive Education celebrates the elaboration of this General Comment and kindly requires the Committee to take this submissions into account so that its final version offers a wide comprehension of equality and non-discrimination within education systems around the world.

I. TESTS MUST INCLUDE AND BE ACCESSIBLE TO STUDENTS WITH DISABILITIES

Current education systems are used to evaluate students through standardized tests. Although it has been widely accepted for many years, this type of evaluation has excluded and discriminated against -and continues to do so- persons with disabilities.

This happens at many different levels. In the first place, schools are usually reluctant to adapt evaluation methods and instruments to the needs of persons with disabilities. Instead of developing flexible and multiple forms of assessments that take into account the singularities of each student, they require that everyone achieve the same goals and acquire the same knowledge in the same time. This rigid concept of promotion and success has a strong negative impact on people with disabilities: their possibilities of moving forward and

¹ The Regional Network for Inclusive Education is currently integrated by the following organizations and coalitions: Article 24 Group for Inclusive Education (Argentina), the Brazilian Federation of Down Syndrome Associations (Brazil), the Brazilian Association for the Rights of Persons with Autism - Abraça (Brazil), the Down Syndrome Foundation (Brazil), Down 21 (Chile), the Colombian Association of Down Syndrome - ASDOWN (Colombia), the Caribbean Down Syndrome Foundation - Fundown Caribe (Colombia), Saraki Foundation (Paraguay), the Peruvian Society of Down Syndrome - SPSD (Perú), Society and Disability - SODIS (Perú), the Coalition for the Right to Inclusive Education (Perú), the Archive and Access to Public Information Center - CAinfo (Uruguay), the Inter-American Institute on Disability and Inclusive Development - iiDi (Uruguay) and the Workgroup about Inclusive Education - GT-EI (Uruguay).

finishing compulsory levels of education are diminished, situation that exposes them to high levels of school dropout and failure.

But standardized tests are also used in the national and international levels to measure the quality of education systems, and persons with disabilities are often directly or indirectly excluded from these assessments. Direct exclusion happens when these students are expressly left out from their field of application. Exclusion is indirect when accessibility and reasonable accommodation are not fully implemented².

International tests like The Trends in International Mathematics and Science Study (TIMSS), Progress in International Reading Literacy Study (PIRLS) and the Programme for International Student Assessment (PISA) are addressed to a specific groups of students (desired target population) in order to measure particular academic subjects. Based on the median score calculated in these assessments, countries obtain their position in an international ranking, which explains the concern that politicians, policy makers and the media show on this particular issue. Although the aforementioned tests intend to maintain a 95% participation rate of the desired school population of students, pre-exclusions are practiced within the school level³. For instance, TIMSS and PIRLS exclude: a) schools that are geographically remote; b) schools that have very few students; c) schools where the curriculum or structure is different from the mainstream system; and d) schools that are specifically for students with special needs⁴. PISA on the other hand excludes: a) students with an intellectual disability; b) students with a functional disability; and c) students with limited assessment language proficiency (...)⁵.

Some national standardized assessments, have not only the aim of measuring the quality of education systems, but are also used to accredit that students have completed their school learning process or to allow access to higher studies. For example, the standardized assessment PAES⁶ implemented in El Salvador does not contemplate all the necessary accommodations for students with disabilities. As the result in this test serves to obtain certification accrediting the completion of studies, those who do not obtain the minimum score -due to lack of reasonable accommodation- cannot pursue higher education

² National Assessment of Educational Progress (NAEP) includes accommodations such as: extended time, taking the test amongst smaller group, Braille system, test-read aloud, large print. See: Mathew J. Schuelka, "Excluding students with disabilities from the culture of achievement: the case of the TIMSS, PIRLS, and PISA", *Journal of Education Policy*, Vol. 28, N° 2, p. 226.

³ *Ibid*, pp. 222-223.

⁴ *Ibid*, pp. 222-223.

⁵ PISA 2015 Results, Excellence and equity in Education, p. 289. Available in: <http://www.oecd-ilibrary.org/docserver/download/9816061e.pdf?expires=1511901483&id=id&accname=guest&checksum=6AA88207450EAD06C436E76B5B202F51>

⁶ Prueba de Aprendizaje y Aptitudes para Egresados de Educación Media - PAES (Test of learning and abilities for high school graduates), administered by the Ministry of Education in El Salvador.

and will probably have limited options within the labour market. This shows that despite their neutral aim, standardized tests may have the effect of excluding students with disabilities from access and enjoyment of other rights guaranteed by the Convention, such as the right to general tertiary education, vocational training, adult education and lifelong learning without discrimination and the right to work on equal basis with others.

In addition to this, as long as students' with disabilities educational progress is not measured or reflected in any instrument, public policy fails to implement strategies to improve and strengthen their education. It is undoubtedly discriminatory to measure the quality of school systems by excluding some students on the basis of their disability. This reinforces a history of segregation where persons' with disabilities progress in education is deemed not worthy to measure and consequently their educational needs are not even considered in the formulation of educational public policy.

In this sense, it is essential that General Comment no. 5 expressly mentions that standardized assessment systems that directly or indirectly exclude students with disabilities are discriminatory and in contravention of articles 5 and 24.

II. TESTS SHOULD BE DESIGNED TO EMBRACE DIVERSITY

The right to equality and non-discrimination linked with the right to inclusive education requires not only that students with disabilities are not excluded from tests and that accessibility is guaranteed, but also that evaluation methods and instruments are substantially transformed to embrace diversity. If education systems must be directed to the full development of human potential and sense of dignity and selfworth, the strengthening of respect for human rights, fundamental freedoms and human diversity and the development of personality, talents and creativity, as well as mental and physical abilities to their fullest potential (article 24 CDPD), evaluation must serve to assess a wider variety of competences and skills.

Standardized testing, even with reasonable accommodation, is not appropriate to reflect the progress made by every student and has a strong negative impact on those with disabilities, whose potential may differ from what education systems have traditionally expected and considered successful. Real equality is achieved when every student is evaluated according to his or her potential and interests, and when the progress accomplished in time is effectively taken into account and valued.

Expecting everyone achieves the same knowledge under standardized and homogenizing criteria may have the goal or the effect to exclude, segregate and deprive students with disabilities from the access, continuation and completion of compulsory education levels and from the enjoyment of the right to lifelong learning as well. Even when curricula or evaluation methods are adapted, the lack of certain achievements is often used

to justify the denial to grant school diplomas on an equal basis with others. In Argentina, for instance, the judiciary branch had to solve a case⁷ in which a student with Down Syndrome was denied his diploma after successfully completing his secondary education. The school and the Ministry of Education of the City of Buenos Aires alleged that the adaptations made in his curricula did not permit to reach the minimum mandatory contents set out by the general education curricula that was applicable to students without disabilities. The judge - in a decision that was then ratified by the Chamber of Appeal- considered that the right to inclusive education demanded that everyone was evaluated according to the achievements that had been thought for him or her, and that a contrary interpretation of the issue would violate the right to equality and non-discrimination.

Traditional ways of evaluating are not admissible under the Convention. New competences, contents and skills have to be taken into account to design assessments systems; high expectations towards all must be always maintained; recognition of individual progresses towards broader goals must be envisioned. Education systems can only be called “inclusive” when they allow flexible learning objectives according to the individuality of each student. It is extremely relevant that this new approach takes into account intersectionality, especially in regions as Latin America, where categories like gender or ethnicity are also important sources of inequality.

The Regional Network for Inclusive Education considers that it is essential that General Comment no. 6 contemplates that evaluation methods and instruments must be transformed to embrace diversity, under the consideration that everyone has different abilities, potential and interests, and that imposing the same learning objectives to all students is discriminatory and infringes the right to inclusive education.

III. THE RIGHT TO EQUAL CERTIFICATION

Equal certification is a key component of the right to inclusive education. As underlined in our previous considerations, students must be evaluated in consideration of their personal characteristics. As a necessary consequence of this, they must receive diplomas on an equal basis with others and these instruments should allow them to fully enjoy the rights guaranteed by the Convention.

Certification upon the completion of school trajectory must not exclude any student. But equality and non-discrimination applied to education -and particularly to certification- also requires that diplomas and other instruments of certification are equal to those received by students without disabilities. Diplomas received by persons with disabilities should include the same information as those received by every student and be built

⁷ “R., C, A v. Ministry of Education and others s/Amparo” (Case A47249/2015)



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without any mention that may stigmatize persons on the basis of their disability. In other words, these documents must not be focused on what students did not acquire in relation with a normalized curricula or contain any mention that may undermine their achievements and limit their possibilities of including themselves in future environments.

The Regional Network for Inclusive Education considers that it would be very valuable that the Committee mentions expressly that students with disabilities have the right to receive the same diplomas that are received by persons without disabilities, and that any distinction or mention on certification instruments whose aim or effect is to stigmatize on the grounds of disability or undermine students' with disabilities achievements is discriminatory and not admissible under articles 5 and 24 of the Convention.