

CRPD 第 4 號一般性意見：有權接受融合教育(2016)

General comment No. 4 (2016)

on the right to inclusive education

中英文對照版



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一、引言

I. Introduction

1. 身心障礙者在過去被視為接受福利者，如今被國際法認可為享有權利者，主張享有不受歧視和與他人機會均等的受教權。《兒童權利公約》(1989)、《世界全民教育宣言》(The World Declaration on Education for All, 1990)、《身心障礙者機會均等標準規則》(The Standard Rules on the Equalization of Opportunities for Persons with Disabilities, 1993)以及《薩拉曼卡聲明和行動綱要》(1994) 都載有相關措施，顯現出對身心障礙者受教權的覺知和理解日益加深。
1. Historically viewed as welfare recipients, persons with disabilities are now recognized under international law as rights holders with a claim to the right to education without discrimination and on the basis of equal opportunities. The Convention on the Rights of the Child (1989), the World Declaration on Education for All (1990), the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (1993) and the Salamanca statement and framework for action (1994) all include measures testifying to the growing awareness and understanding of the right of persons with disabilities to education.
2. 在過去 30 年來對於「融合是實現受教權的關鍵」這個理念的認知有所加強，並且載入了《身心障礙者權利公約》，這是首度在具有法律約束力的文書中提到優質融合教育的概念。《永續發展目標》第 4 項也確認融合、品質和公平教

育的價值。融合教育是讓所有學習者（包括身心障礙者）獲得高品質教育的重要關鍵，也是發展融合、和平和公正社會的重要關鍵。此外，還有教育、社會和經濟方面的重大理由。正如聯合國人權事務高級專員辦事處關於身心障礙者受教權的專題研究報告所反映的，唯有融合教育才能提供身心障礙者優質教育和社會發展，並保證受教權的普遍性和不歧視。¹

2. Recognition of inclusion as the key to achieving the right to education has strengthened over the past 30 years and is enshrined in the Convention on the Rights of Persons with Disabilities, the first legally binding instrument to contain a reference to the concept of quality inclusive education. Sustainable Development Goal 4 too affirms the value of inclusive, quality and equitable education. Inclusive education is central to achieving high-quality education for all learners, including those with disabilities, and for the development of inclusive, peaceful and fair societies. Furthermore, there is a powerful educational, social and economic case to be made. As reflected in the report of the Office of the United Nations High Commissioner for Human Rights on the thematic study on the right of persons with disabilities to education, only inclusive education can provide both quality education and social development for persons with disabilities, and a guarantee of universality and non-discrimination in the right to education.¹

3. 儘管有此進展，但委員會仍憂心於鉅大挑戰持續存在。數百萬身心障礙者繼續被剝奪受教權，更多的身心障礙者只能在隔離環境或品質較差的環境中接受教育。

3. Despite the progress achieved, however, the Committee is concerned that profound challenges persist. Many millions of persons with disabilities continue to be denied

¹見 A/HRC/25/29 和 Corr.1, 第 3 段和第 68 段。

See A/HRC/25/29 and Corr.1, paras. 3 and 68.

the right to education and for many more education is available only in settings where persons with disabilities are isolated from their peers and where the education they receive is of an inferior quality.

4. 妨礙身心障礙者獲得融合教育的因素很多，包括：

4. Barriers that impede access to inclusive education for persons with disabilities can be attributed to multiple factors, including:

(a) 不理解從人權模式的角度看待障礙，或是沒有實行人權模式。該模式認為：將身心障礙者排除在外的，並非個人的損傷，而是存在於社區和社會中的阻礙；

(a) The failure to understand or implement the human rights model of disability, according to which barriers within the community and society, rather than personal impairments, exclude persons with disabilities;

(b) 由於持續存在對身心障礙者的歧視，加上生活在長期住宿機構所造成的孤立，以及主流環境對身心障礙者的期望過低，導致社會偏見加劇和恐懼攀升，但未被質疑；

(b) Persistent discrimination against persons with disabilities, compounded by the isolation of those still living in long-term residential institutions, and low expectations about those in mainstream settings, allowing prejudices and fear to escalate and remain unchallenged;

(c) 不了解從全民教育的角度看融合與優質教育及多樣性的本質和優點，包括競爭力；未向所有家長宣導理念；針對支持性的需求未給予適切回應，導致不應有的恐懼和成見，認為融合將導致教育品質下降，或者會對他人造成負面影響；

(c) Lack of knowledge about the nature and advantages of inclusive and quality education and diversity, including regarding competitiveness, in learning for all; lack of outreach to all parents; and lack of appropriate responses to support requirements,

leading to misplaced fears and stereotypes that inclusion will cause a deterioration in the quality of education or otherwise have a negative impact on others;

(d) 缺乏分組資料和研究（二者均為課責和發展方案所必須），致使未能制定促進融合和優質教育的有效政策和介入措施；

(d) Lack of disaggregated data and research (both of which are necessary for accountability and programme development), which impedes the development of effective policies and interventions to promote inclusive and quality education;

(e) 缺乏落實融合教育的政治意願和知識技能，包括所有教職員工的教育訓練不足；

(e) Lack of political will, technical knowledge and capacity in implementing the right to inclusive education, including insufficient education of all teaching staff;

(f) 經費預算機制不當與不足，致使無法做到：提供激勵誘因和合理調整措施以接納身心障礙學生、跨單位協調、提供支持服務、與持續性；

(f) Inappropriate and inadequate funding mechanisms to provide incentives and reasonable accommodations for the inclusion of students with disabilities, interministerial coordination, support and sustainability;

(g) 針對權利的侵害，缺乏法律救濟和主張尋求補救的機制。

(g) Lack of legal remedies and mechanisms to claim redress for violations.

5. 《身心障礙者權利公約》締約國實施融合教育時採取的任何措施，必須考慮《公約》的基本原則，確保發展融合教育體系的過程和結果均符合第 3 條一般原則。

5. States parties to the Convention on the Rights of Persons with Disabilities must have regard for the underlying general principles of the Convention in all measures taken to implement inclusive education and must ensure that both the process and outcomes of developing an inclusive education system comply with article 3.

6. 本一般性意見適用於所有實際的或被認定的身心障礙者。² 委員會承認某些人群更容易被剝奪接受教育的機會，例如智能障礙、多重障礙、盲聾、自閉症、或處於緊急人道狀況中的身心障礙者。
6. The present general comment is applicable to all persons with actual or perceived disabilities.² The Committee recognizes that some groups are more at risk of exclusion from education than others, such as: persons with intellectual disabilities or multiple disabilities, persons who are deafblind, persons with autism or persons with disabilities in humanitarian emergencies.
7. 根據第 4 條(3)，締約國在擬定、實施、監督和評估融合教育政策時，必須主動與身心障礙者（包括身心障礙兒童）協商。國家可透過代表身心障礙者的組織邀請身心障礙者參與協商〔譯者註：參考 CRPD 第 7 號一般性意見〕。身心障礙者（適當時也包括其家人）應視為融合教育的合作夥伴，而不僅是教育接受者。
7. Consistent with article 4 (3), States parties must consult with and actively involve persons with disabilities, including children with disabilities, through their representative organizations, in all aspects of planning, implementation, monitoring and evaluation of inclusive education policies. Persons with disabilities and, when appropriate, their families, must be recognized as partners and not merely recipients of education.

二、第 24 條的規範性內容

II. Normative content of article 24

8. 根據第 24 條(1)，締約國必須確保經由融合教育體系實現身心障礙者的受教權。該體系貫穿各個階段，包括學前、小學、中學和中學後教育、職業訓練

² 《身心障礙者權利公約》第一條(2)。

和終身學習、課外活動和社會活動。該體系同時要讓所有學生（包括身心障礙學生）不受歧視且與他人平等地享有受教權。

8. In accordance with article 24 (1), States parties must ensure the realization of the right of persons with disabilities to education through an inclusive education system at all levels, including preschool, primary, secondary and tertiary education, vocational training and lifelong learning, extracurricular and social activities, and for all students, including persons with disabilities, without discrimination and on an equal basis with others.

9. 確保融合教育需要改變所有正式和非正式教育環境的文化、政策和做法，以適應每個學生的不同需求和身分／認同，並致力於排除所有可能的阻礙。這需要加強教育系統接納所有學習者的能力。它側重所有學生（特別是因不同原因被排除在外或有可能被邊緣化的學生）充分有效的參與、無障礙／可及性、出席和學業成就。融合的內涵包括能不受歧視地接受高品質的正規和非正規教育，並能不斷進步。融合教育希能藉由強調身心障礙學生的福祉和成功，促使社區、教育體系和結構對抗歧視（包括有害的偏見）、承認多樣性、促進參與、並克服對所有人的學習和參與上的阻礙。這點需要教育體系從法律層面、政策層面、以及財政、管理、規劃、執行、和監督機制著手，徹底轉型。

9. Ensuring the right to inclusive education entails a transformation in culture, policy and practice in all formal and informal educational environments to accommodate the differing requirements and identities of individual students, together with a commitment to removing the barriers that impede that possibility. It involves strengthening the capacity of the education system to reach out to all learners. It focuses on the full and effective participation, accessibility, attendance and achievement of all students, especially those who, for different reasons, are excluded or at risk of being marginalized. Inclusion involves access to and progress in high-quality formal and informal education without discrimination. Inclusion seeks to

enable communities, systems and structures to combat discrimination, including harmful stereotypes, recognize diversity, promote participation and overcome barriers to learning and participation for all by focusing on the well-being and success of students with disabilities. It requires an in-depth transformation of education systems in legislation, policy and the mechanisms for financing, administering, designing, delivering and monitoring education.

10. 融合教育應理解為：

10. Inclusive education is to be understood as:

(a) 所有學習者的基本人權。教育是每個學習者的權利。值得注意的是，兒童的教育不是其父母或照顧者的權利。家長在這方面的責任次於兒童的權利；

(a) A fundamental human right of all learners. Notably, education is the right of the individual learner and not, in the case of children, the right of a parent or caregiver. Parental responsibilities in this regard are subordinate to the rights of the child;

(b) 一項原則：重視所有學生的福祉，尊重他們的固有尊嚴和自主性，並承認其個人需求、與能有效融入社會和貢獻社會的能力；

(b) A principle that values the well-being of all students, respects their inherent dignity and autonomy, and acknowledges individuals' requirements and their ability to effectively be included in and contribute to society;

(c) 實現其他人權的手段。它是身心障礙者擺脫貧困、充分參與社區生活和免受剝削的主要途徑。³ 它也是實現融合社會的主要途徑；

(c) A means of realizing other human rights. It is the primary means by which persons with disabilities can lift themselves out of poverty, obtain the means to participate fully in their communities and be safeguarded from exploitation.³ It is also the primary means of achieving inclusive societies;

³ 經濟、社會及文化權利委員會關於受教育權的第 13 號一般性意見(1999)。Committee on Economic, Social and Cultural Rights, general comment No. 13 (1999) on the right to education.

(d) 一項結果：經由持續、積極的作為，去除受教育權的阻礙，同時改變普通學校的文化、政策和做法，以期為所有學生進行調適並有效融入。

(d) The result of a process of continuing and proactive commitment to eliminating barriers impeding the right to education, together with changes to culture, policy and practice of regular schools to accommodate and effectively include all students.

11. 委員會強調，必須認清排斥(exclusion)、隔離(segregation)、統合(integration)和融合(inclusion)四個詞之間的區別。「排斥」指直接或間接地以任何形式阻止或拒絕讓學生獲得教育。「隔離」是指將身心障礙學生接受教育的環境與非身心障礙學生分開，讓他們在分隔的、為具有某種或多種損傷者設計的環境下接受教育。「統合」是將身心障礙者安置在現有主流教育機構的過程，認為他們能夠適應這類機構的標準化要求。⁴「融合」是一個系統化的改革過程，包括改變與調整教學內容、教學方法、教育理念、結構和策略，以克服阻礙，希望為同樣年齡層的所有學生提供公平和參與式的學習經驗，以及最符合其需求和喜好的環境。如果只將身心障礙學生安置在主流班級而未輔以結構性的改革，如組織、課程和教學策略的調整，談不上融合。此外，統合未必能保證一定會從隔離轉為融合。

11. The Committee highlights the importance of recognizing the differences between exclusion, segregation, integration and inclusion. Exclusion occurs when students are directly or indirectly prevented from or denied access to education in any form. Segregation occurs when the education of students with disabilities is provided in separate environments designed or used to respond to a particular impairment or to various impairments, in isolation from students without disabilities. Integration is

⁴見 A/HRC/25/29 和 Corr.1, 第 4 段，以及聯合國兒童基金會(UNICEF)，《身心障礙兒童的受教育權：對融合教育採取以權利為本位的方針》(日內瓦，2012 年)。

See A/HRC/25/29 and Corr.1, para. 4, and United Nations Children's Fund (UNICEF), *The Right of Children with Disabilities to Education: A Rights-based Approach to Inclusive Education* (Geneva, 2012).

the process of placing persons with disabilities in existing mainstream educational institutions with the understanding that they can adjust to the standardized requirements of such institutions.⁴ Inclusion involves a process of systemic reform embodying changes and modifications in content, teaching methods, approaches, structures and strategies in education to overcome barriers with a vision serving to provide all students of the relevant age range with an equitable and participatory learning experience and the environment that best corresponds to their requirements and preferences. Placing students with disabilities within mainstream classes without accompanying structural changes to, for example, organization, curriculum and teaching and learning strategies, does not constitute inclusion. Furthermore, integration does not automatically guarantee the transition from segregation to inclusion.

12. 融合教育的核心特徵是：

12. The core features of inclusive education are:

(a) 「全系統」取向：教育部門必須確保所有資源都投注於推動融合教育，並對制度文化、政策和做法引入和嵌入必要的調整；

(a) A “whole systems” approach: education ministries must ensure that all resources are invested in advancing inclusive education and in introducing and embedding the necessary changes in institutional culture, policies and practices;

(b) 「整體教育環境」：教育機構的領導承諾至關重要。為了實現各教育階段和所有領域的融合教育，要致力於引入和嵌入所需的文化、政策和做法。這些領域包括課堂教學和師生關係、校董會議、教師監督、諮詢服務和醫療保健、校外教學、預算撥款、與身心障礙和非身心障礙學習者的家長互動，如果可行，則與當地社區或更廣泛的公眾互動；

(b) A “whole educational environment”: the committed leadership of educational institutions is essential for introducing and embedding the culture, policies and practices needed to achieve inclusive education at all levels and in all areas,

including in classroom teaching and relationships, board meetings, teacher supervision, counselling services and medical care, school trips, budgetary allocations, any interaction with the parents of learners with and without disabilities and, when applicable, the local community or wider public;

(c) 「全人」取向：承認人人具有學習能力，對所有學習者（包括身心障礙學習者）都抱有高度期望。融合教育提供彈性課程、教學與學習方法，是順應不同優勢、需求和學習風格。這取向意味著提供支持、合理調整和早期介入，使所有學習者都能發揮潛能。在規劃教學活動時，應側重學習者的能力和意願，而不是教學內容。「全人」取向確保在無障礙的學習環境中提供融合的課堂教學並輔以適當支持，目標是終結教育環境中的隔離。教育系統必須提供個別化的教育對策，而不是指望學生能適應教育系統；

(c) A “whole person” approach: recognition is given to the capacity of every person to learn, and high expectations are established for all learners, including learners with disabilities. Inclusive education offers flexible curricula and teaching and learning methods adapted to different strengths, requirements and learning styles. This approach implies the provision of support, reasonable accommodation and early intervention so that all learners are able to fulfil their potential. The focus is on learners’ capacities and aspirations rather than on content when planning teaching activities. The “whole person” approach aims at ending segregation within educational settings by ensuring inclusive classroom teaching in accessible learning environments with appropriate supports. The education system must provide a personalized educational response, rather than expect students to fit the system;

(d) 教師支持：所有教師和其他工作人員均接受所需教育和訓練，使他們（包括身心障礙教師）具備核心價值和形塑融合學習環境的能力。融合文化提供一個無障礙和支持的環境，鼓勵教師工作時要合作、互動和解決問題；

(d) Supported teachers: all teachers and other staff receive the education and training they need to give them the core values and competencies to accommodate inclusive

learning environments, which include teachers with disabilities. An inclusive culture provides an accessible and supportive environment that encourages working through collaboration, interaction and problem-solving;

- (e) 尊重多樣性和重視多樣性的價值：對於學習社群的所有學生，不論其障礙、種族、膚色、生理性別、語言、語言文化、宗教，政治或其他見解、民族、族裔、原住民或社會出身、財產、出生、年齡或其他身分，都同樣歡迎並且尊重他們的多樣性。必須讓所有學生都覺得受到重視、尊重、接納、意見被傾聽。必須採取有效措施防範虐待和欺凌。融合對學生採取因人而異的方式；
- (e) Respect for and value of diversity: all members of the learning community are equally welcome and must be shown respect for diversity irrespective of disability, race, colour, sex, language, linguistic culture, religion, political or other opinion, national, ethnic, indigenous or social origin, property, birth, age or other status. All students must feel valued, respected, included and listened to. Effective measures to prevent abuse and bullying are in place. Inclusion takes an individual approach to students;
- (f) 友善的學習環境：融合的學習環境是能讓每個人都感到安全、得到支持、有動力、和能夠表現自我的無障礙環境，這種環境強調讓學生參與建立一個正向的校園社群。同儕團體的學習、建立正向關係、友誼和接納應獲肯定；
- (f) A learning-friendly environment: inclusive learning environments are accessible environments where everyone feels safe, supported, stimulated and able to express themselves and where there is a strong emphasis on involving students in building a positive school community. Recognition is afforded to the peer group in learning, building positive relationships, friendships and acceptance;
- (g) 有效轉銜：提供障礙學習者支持，確保其能從學校的學習有效轉銜到職業教育和中學後教育，最終轉銜到工作。學習者的能力和自信得到發展，獲得合理調整，在評量和考試過程中得到平等對待，他們的能力和成果得以在與他人平等的基礎上得到認證；

- (g) Effective transitions: learners with disabilities receive support to ensure the effective transition from learning at school to vocational and tertiary education and, finally, to work. Learners' capacities and confidence are developed and learners receive reasonable accommodation, are treated with equality in assessments and examination procedures, and their capacities and attainments are certified on an equal basis with others;
- (h) 肯定夥伴關係的功用：鼓勵教師會、學生會和聯盟、身心障礙者組織、學校董事會、家長－教師聯合會以及其他正式或非正式的學校支持團體等增進對身心障礙的認識和瞭解。家長或照顧者以及社區的參與被視為一種資產，因為可以貢獻資源和力量。學習環境與其外部較廣大的社區之間的關係，必須被視為實現融合社會的途徑；
- (h) Recognition of partnerships: teacher associations, student associations and federations, organizations of persons with disabilities, school boards, parent-teacher associations and other functioning school support groups, both formal and informal, are all encouraged to increase understanding and knowledge of disability. The involvement of parents or caregivers and the community is viewed as an asset that contributes resources and strengths. The relationship between the learning environment and the wider community must be recognized as a route towards inclusive societies;
- (i) 監測：融合教育是一個持續的進程，必須定期監測和評估，以確保不會出現隔離或統合的情形，不管是正式或非正式的。根據第 33 條，參與監測的成員應該要有身心障礙者，其中要包括有高度支持需求的兒童和成人（透過其代表組織參與監測），適當的情況下還可包含身心障礙兒童的家長或照顧者。在發展和運用障礙者融合指標時，必須與《2030 年永續發展議程》的內涵相符。
- (i) Monitoring: as a continuing process, inclusive education must be monitored and evaluated on a regular basis to ensure that neither segregation nor integration are taking place, either formally or informally. According to article 33, monitoring

should involve persons with disabilities, including children and persons with intensive support requirements, through their representative organizations, as well as parents or caregivers of children with disabilities, where appropriate. Disability-inclusive indicators must be developed and used in a manner consistent with the 2030 Agenda for Sustainable Development.

13. 按照聯合國教育、科學及文化組織《反對教育歧視公約》(Convention against Discrimination in Education)，並為落實《身心障礙者權利公約》第 24 條(1)，締約國必須確保受教權基於不受歧視和機會均等而得到保障。締約國應當禁止一切基於身心障礙的歧視，保證所有身心障礙者獲得平等和有效的保護，不受到基於任何原因的歧視。身心障礙者可能受到基於障礙、性別、宗教、法律地位、族裔出身、年齡、性傾向或語言的交織歧視。此外，家長、手足和其他親屬也可能因為家裡有身心障礙者而受到連帶歧視。對於各種形式的歧視需採取的措施包括查明與消除教育機構及社區中的各種阻礙，如：法律、物理環境、溝通和語言、社會、經濟和態度上的障礙。不受歧視的權利包括不被隔離及獲得合理調整，而且必須理解提供無障礙學習環境和合理調整是一種責任。

13. Consistent with the Convention against Discrimination in Education of the United Nations Educational, Scientific and Cultural Organization (UNESCO) and in order to give effect to article 24 (1) of the Convention on the Rights of Persons with Disabilities, States parties must ensure that the right to education is assured without discrimination and on the basis of equality of opportunity. States parties must prohibit all discrimination on the basis of disability and guarantee to all persons with disabilities equal and effective protection against discrimination on all grounds. Persons with disabilities can experience intersectional discrimination on the basis of disability, gender, religion, legal status, ethnic origin, age, sexual orientation or language. In addition, parents, siblings and other relatives can also experience discrimination on grounds of disability by association. The measures needed to

address all forms of discrimination include identifying and removing legal, physical, communication and linguistic, social, financial and attitudinal barriers within educational institutions and the community. The right to non-discrimination includes the right not to be segregated and to be provided with reasonable accommodation and must be understood in the context of the duty to provide accessible learning environments and reasonable accommodation.

14. 武裝衝突局勢、緊急人道情況和自然災害對融合教育影響尤甚。締約國應採取融合的減災策略，以全面保障學校在緊急情況下的安全。這些措施必須能察覺障礙學習者的需要。在這種情況下設置的臨時學習環境必須確保身心障礙者（特別是身心障礙兒童）有跟其他人平等接受教育的權利。臨時學習環境必須包括無障礙／可及的教材、學校設施、和輔導，並為聾學習者提供學習當地手語的機會。按照《身心障礙者權利公約》第 11 條，同時鑒於此種情況下性暴力風險增加，因此必須設法確保提供障礙婦女和女童安全且無障礙的學習環境。不可以用障礙學習者在緊急狀況下疏散困難為藉口，拒絕其入學，相反地，必須提供合理調整措施。

14. Situations of armed conflict, humanitarian emergencies and natural disasters have a disproportionate impact on the right to inclusive education. States parties should adopt inclusive disaster risk reduction strategies for comprehensive school safety and security in emergencies that are sensitive to learners with disabilities. Temporary learning environments in such contexts must ensure the right of persons with disabilities, in particular children with disabilities, to education on the basis of equality with others. They must include accessible educational materials, school facilities, counselling and access to training in the local sign language for deaf learners. In accordance with article 11 of the Convention on the Rights of Persons with Disabilities, and given the heightened risk of sexual violence in such settings, measures must be taken to ensure that learning environments are safe and accessible for women and girls with disabilities. Learners with disabilities must not be denied

access to educational establishments on the basis that evacuating them in emergency situations would be impossible, and reasonable accommodation must be provided.

15. 為落實第 24 條(1)(a)，按照《世界人權宣言》、《經濟、社會及文化權利國際公約》和《兒童權利公約》，教育必須旨在充分開發人的潛能，培養尊嚴和自我價值意識，加強對人權和人之多元性之尊重。締約國必須確保教育符應《經濟、社會及文化權利國際公約》的宗旨和目標，其含義依照《世界全民教育宣言》(第 1 條)、《兒童權利公約》(第 29 條(1))、《維也納宣言和行動綱領》(第 1 部分第 33 段和第 2 部分第 80 段)以及《聯合國人權教育十年行動計畫》(第 2 段)的解釋。這些文本還包含其他要素，例如提到性別平等和尊重環境。⁵ 確保受教權的內涵既涉及教育機會也涉及教學內容，故應致力維護各種價值觀，包括理解和寬容。⁶ 融合教育必須促進對所有人的相互尊重和重視，並力求教育環境中的學習方針、機構文化和課程本身均能反映多樣性的價值。

15. For article 24 (1) (a) to be realized, and in line with the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights and the Convention on the Rights of the Child, education must be directed at the full development of the human potential and sense of dignity and self-worth, and the strengthening of respect for human rights and human diversity. States parties must ensure that education conforms to the aims and objectives of the International Covenant on Economic, Social and Cultural Rights as interpreted in the light of the World Declaration on Education for All (art. 1), the Convention on the Rights of the Child (art. 29 (1)), the Vienna Declaration and Programme of Action (Part I, para.

⁵ 經濟、社會及文化權利委員會，第 13 號一般性意見。

Committee on Economic, Social and Cultural Rights, general comment No. 13.

⁶ 兒童權利委員會關於教育目的的第 1 號一般性意見(2001)。

Committee on the Rights of the Child, general comment No. 1 (2001) on the aims of education.

33, and Part II, para. 80) and the Plan of Action for the United Nations Decade for Human Rights Education (para. 2). These texts include additional elements such as references to gender equality and respect for the environment.⁵ Ensuring the right to education is a matter of access as well as content, and efforts should be directed at upholding a wide range of values, including understanding and tolerance.⁶ Inclusive education must aim at promoting mutual respect and value for all persons and at building educational environments in which the approach to learning, the culture of the educational institution and the curriculum itself reflect the value of diversity.

16. 為落實第 24 條(1)(b)，教育應力求將身心障礙者的人格、才能和創造力，以及心智、體能和溝通能力，發揮到個人極致。身心障礙者教育往往太過強調補救缺陷，著重身心障礙者實際上的或是被認定的損傷，對他們的潛能有先入為主的負面假設，而限縮他們的發展機會。因此締約國必須支持創造更多機會，以發揮每一個身心障礙者特有的長處和才能。

16. For article 24 (1) (b) to be implemented, education should be directed to the development of the personality, talents and creativity of persons with disabilities, as well as of their mental, physical and communicational abilities, to their fullest potential. The education of persons with disabilities too often focuses on a deficit approach, on their actual or perceived impairment and on limiting opportunities to pre-defined and negative assumptions of their potential. States parties must support the creation of opportunities to build on the unique strengths and talents of each individual with a disability.

17. 為實現第 24 條(1)(c)，教育必須力求讓身心障礙者能夠充分有效地參與自由社會。委員會提醒注意《兒童權利公約》第 23 條(3)，強調必須提供身心障礙兒童協助，以確保他們能夠有效接受教育。在此所謂協助要能有助於他們盡可能達到充分融入社會和實現個人發展。締約國必須認識到：個別支持和合理調整是優先辦理事項，且在義務教育階段應當免費提供。

17. For article 24 (1) (c) to be realized, the aims of education must be directed at

enabling persons with disabilities to participate fully and effectively in a free society. Recalling article 23 (3) of the Convention on the Rights of the Child, the Committee stresses that, regarding children with disabilities, assistance must be provided to ensure that they have effective access to education in a manner conducive to achieving their fullest possible social integration and individual development. States parties must recognize that individual support and reasonable accommodation are priority matters and should be free of charge at all compulsory levels of education.

18. 為落實第 24 條(2) (a)，應當禁止將身心障礙者排除在一般教育系統之外，包括用任何法律規範以具有損傷或損傷程度為由，限制將身心障礙者納入一般教育系統，例如根據個人潛能高低決定是否准予融合，或聲稱造成過重或不合比例的負擔而推卸提供合理調整的義務。一般教育係指所有普通學習環境和教育場所。直接排除是指將某些學生分類為「不可教育」，因而沒有資格獲得教育。間接排斥是指要求通過統一考試作為入學條件，但未提供合理調整和支持。

18. For article 24 (2) (a) to be implemented, the exclusion of persons with disabilities from the general education system should be prohibited, including through any legislative or regulatory provisions that limit their inclusion on the basis of their impairment or the degree of that impairment, such as by conditioning inclusion on the extent of the potential of the individual or by alleging a disproportionate and undue burden to evade the obligation to provide reasonable accommodation. General education means all regular learning environments and the education department. Direct exclusion would be to classify certain students as “non-educable” and thereby ineligible for access to education. Indirect exclusion would be imposing a requirement to pass a common test as a condition for school entry without reasonable accommodations and support.

19. 為落實《公約》第 4 條(1) (b)，締約國應採取一切適當措施，包括立法，將現行法律、法規、習俗和慣例中歧視身心障礙者且違反第 24 條的部分修改或廢除。如有必要，應在一定的時限內有系統地廢除或修訂之。

19. For article 4 (1) (b) of the Convention to be implemented, States parties should take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices that constitute discrimination against persons with disabilities and that are in violation of article 24. Where necessary, discriminatory laws, regulations, customs and practices should be repealed or amended in a systematic and time-bound manner.

20. 為實現第 24 條(2) (b)，必須讓身心障礙者能夠獲得融合、優質、免費的中小學教育，並且能夠平等地與社區內其他人順利地從小學升入中學。委員會借鑒了經濟、社會及文化權利委員會的建議，即為了履行這一義務，教育系統必須具有四個相互關聯的特徵：可得性(availability)、可及性(accessibility)、可接受性(acceptability)和可調適性(adaptability)。⁷

20. For article 24 (2) (b) to be realized, persons with disabilities must have access to inclusive, quality and free primary and secondary education and be able to transition smoothly between the two on an equal basis with others in the communities where they live. The Committee draws on the recommendation of the Committee on Economic, Social and Cultural Rights that, to fulfil that obligation, the education system must comprise four interrelated features: availability, accessibility, acceptability and adaptability.⁷

可得性(**Availability**)

⁷ 經濟、社會及文化權利委員會，第 13 號一般性意見。

Committee on Economic, Social and Cultural Rights, general comment No. 13.

21. 公私立教育機構和教育方案必須量多質優。締約國必須確保能在社區中為各階段的身心障礙學習者提供充分的教育場所。

21. Public and private educational institutions and programmes must be available in sufficient quantity and quality. States parties must guarantee a broad availability of educational places for learners with disabilities at all levels throughout the community.

可及性(Accessibility)

22. 根據《公約》第 9 條和委員會關於無障礙的第 2 號一般性意見(2014)，教育機構和教育方案必須做到對每個人都不歧視與無障礙。整個教育系統必須是無障礙的，包括建築物、資訊和溝通工具(包括環境輔助或調頻系統)、課程、教材、教學方法、評量、語言和支持服務。身心障礙學生所處的環境必須經過設計，以便在整個教育過程中能促進融合並保障他們的平等。⁸ 例如，學校交通、供水和衛生設施(包括個人衛生和如廁設施)、學校餐廳和娛樂場所都應具備融合、無障礙和安全的特質。締約國必須承諾儘速採用通用設計。未來修建的任何教育基礎設施若不配備無障礙設施，締約國應禁止並予以處罰；締約國並應建立有效監測機制和規定期限，以要求現有教育環境增設無障礙設施。締約國還必須承諾在收到要求時，在教育環境中提供合理調整。通用設計方式並不排除提供身心障礙學習者可能需要的輔助器具、應用程式和軟體。無障礙是一個動態的概念，其應用需要定期地監管和技術調整。締約國必須確保所有學生(包括障礙學生)都能使用到為促進學習而儘速開發的創新產品和技術。

22. Consistent with article 9 of the Convention and with the Committee's general comment No. 2 (2014) on accessibility, educational institutions and programmes must be accessible to everyone, without discrimination. The entire education system

⁸ 身心障礙者權利委員會，第 2 號一般性意見。

Committee on the Rights of Persons with Disabilities, general comment No. 2.

must be accessible, including buildings, information and communications tools (comprising ambient or frequency modulation assistive systems), the curriculum, educational materials, teaching methods, assessments and language and support services. The environment of students with disabilities must be designed to foster inclusion and guarantee their equality throughout their education.⁸ For example, school transportation, water and sanitation facilities (including hygiene and toilet facilities), school cafeterias and recreational spaces should be inclusive, accessible and safe. States parties must commit to the prompt introduction of universal design. States parties should prohibit and sanction the building of any future education infrastructure that is inaccessible and establish an efficient monitoring mechanism and time frame for rendering all existing education environments accessible. States parties must also commit to the provision of reasonable accommodation in education environments when so required. The universal design approach does not exclude the provision of assistive devices, applications and software to those learners with disabilities who may require them. Accessibility is a dynamic concept and its application requires periodic regulatory and technical adjustments. States parties must ensure that the rapid development of innovations and new technologies designed to enhance learning are accessible to all students, including those with disabilities.

23. 委員會重視到目前普遍缺乏以無障礙形式和語言（包括手語）提供的課本和學習材料。締約國必須投資於及時發展出印刷或點字教材以及數位教材，包括運用新創科技。締約國還應考慮制定標準和準則，規範如何將印刷材料轉換為無障礙形式和語言的材料，並將無障礙作為教育相關採購的核心元素。委員會呼籲締約國立即批准並實施《促進盲人、視覺損傷者或閱讀印刷品困難者接觸出版品的馬拉喀什條約》(Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled)。

23. The Committee highlights the widespread lack of textbooks and learning materials in accessible formats and languages, including sign language. States parties must invest in the timely development of resources in ink or Braille and in digital formats, including through the use of innovative technology. They should also consider developing standards and guidelines for the conversion of printed material into accessible formats and languages and making accessibility a central aspect of education-related procurement. The Committee calls upon States parties to urgently ratify and implement the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled.

24. 「可及性」要求讓身心障礙學生能夠負擔得起各階段的教育費用。合理調整不應對身心障礙學習者收取額外費用。義務、優質、免費和可及的小學教育應為締約國立即應盡的義務。按照《2030年永續發展議程》，締約國必須逐步採取措施以確保所有兒童（包括身心障礙兒童）能夠獲得完全免費、公平和優質的中學教育，也確保所有身心障礙男女平等地獲得優質且可負擔的技職教育和中學後教育，包括大學教育和終身學習。締約國還必須保證身心障礙者能夠與他人平等地在公私立學校接受教育。

24. Accessibility requires that education at all levels be affordable for students with disabilities. Reasonable accommodation should not entail additional costs for learners with disabilities. Compulsory, quality, free and accessible primary education is an immediate obligation. In line with the 2030 Agenda for Sustainable Development, States parties must progressively adopt measures to ensure that all children, including children with disabilities, complete free, equitable and quality secondary education and to ensure equal access for all women and men with disabilities to affordable and quality technical, vocational and tertiary education, including university, and lifelong learning. States parties must ensure that persons with disabilities are able to access education in both public and private academic institutions on an equal basis with others.

可接受性(Acceptability)

25. 可接受性是指有義務在設計和提供與教育有關的設施、商品和服務時，必須充分考慮並尊重身心障礙者的需求、文化、意見和語言。提供的教育形式和內容必須能為所有人接受。締約國必須採取「積極平權措施」(affirmative action measures，或稱優惠性差別待遇)以確保提供的教育對所有人而言都是高品質的。⁹ 融合與品質相互依存：融合取向可以大幅提高教育品質。

25. Acceptability is the obligation to design and implement all education-related facilities, goods and services taking fully into account and respecting the requirements, cultures, views and languages of persons with disabilities. The form and substance of education provided must be acceptable to all. States parties must adopt affirmative action measures to ensure that education is of good quality for all.⁹ Inclusion and quality are reciprocal: an inclusive approach can make a significant contribution to the quality of education.

可調適性(Adaptability)

26. 委員會鼓勵締約國採取通用學習設計(universal design for learning, UDL)的取向。通用學習設計包含一套原則，供教師和其他教職人員有一個架構可以創造可調適的學習環境，並制定符合所有學習者多元需求的教學方案。通用學習設計承認每個學生有自己獨特的學習方式，內容包括發展彈性的學習方式，創造讓學生積極參與的課堂環境；對所有學生抱有較高期望，同時允許以多元方式達到期望；允許教師對自己的教學有不同的想法；重視所有人(包括身心障礙者)的學習成效。課程的構思、設計和執行必須能符合和適應每個學生的需求，並提供適當的教育回應。必須以彈性評量和多元評量取代標準化評量，並能肯定個別學生透過替代的學習路徑，在較多元的學習目標上的進步。

⁹ 經濟、社會及文化權利委員會，第 13 號一般性意見。

Committee on Economic, Social and Cultural Rights, general comment No. 13.

26. The Committee encourages States parties to adopt the universal design for learning approach, which consists of a set of principles providing teachers and other staff with a structure for creating adaptable learning environments and developing instruction to meet the diverse needs of all learners. It recognizes that each student learns in a unique manner and involves: developing flexible ways to learn, creating an engaging classroom environment; maintaining high expectations for all students while allowing for multiple ways to meet expectations; empowering teachers to think differently about their own teaching; and focusing on educational outcomes for all, including persons with disabilities. Curricula must be conceived, designed and implemented in such a way as to meet and adjust to the requirements of every student, and provide appropriate educational responses. Standardized assessments must be replaced with flexible and multiple forms of assessments and the recognition of individual progress towards broad goals that provide alternative routes for learning.

27. 根據《公約》第 24 條(2) (b)，身心障礙者必須能夠進入他們所住社區的小學和中學學習，不應被送到離家很遠的地方上學。教育環境必須處於身心障礙學生能夠安全到達的範圍內，並且有安全、可靠的交通方式；或者，必須能夠藉由資訊和通訊科技獲得教育。不過，締約國應避免完全依賴科技來取代身心障礙學生在教育環境中的直接參與以及與教師和楷模的互動。主動參與其他學生（包括身心障礙學生的手足）的活動，是融合教育的重要成分。

27. In accordance with article 24 (2) (b) of the Convention, persons with disabilities must be able to attend primary and secondary schools in the communities where they live. Students should not be sent away from home. The educational environment must be within safe physical reach for persons with disabilities and include safe and secure means of transportation; alternatively, it must be accessible through information and communications technologies. However, States parties should avoid relying exclusively on technology as a substitute for the direct involvement of

students with disabilities and interaction with teachers and role models within the educational environment. Active participation with other students, including siblings of learners with disabilities, is an important component of the right to inclusive education.

28. 根據第 24 條(2) (c)，締約國必須提供合理調整，使每個學生都有機會與其他人平等地接受教育。「合理性」應放在具體情境下檢視，包括分析該調整措施與反歧視的目標是否有關且有效。當評估負擔是否過度時，需考慮可得資源和所涉經費。從有人要求提供合理調整措施的時刻開始，就有回應這項要求的責任。¹⁰ 國家、地方和教育機構必須採取政策，致力於提供各教育階段的合理調整。合理調整要提供到何種程度，必須考量要發展融合教育體系的整體義務，善用現有資源並開發新資源。如果以資源不足和金融危機作為未能推展融合教育的藉口，便違反了第 24 條。

28. In accordance with article 24 (2) (c), States parties must provide reasonable accommodation to enable individual students to have access to education on an equal basis with others. “Reasonableness” is understood as the result of a contextual test that involves an analysis of the relevance and the effectiveness of the accommodation and the expected goal of countering discrimination. The availability of resources and financial implications is recognized when assessing disproportionate burden. The duty to provide reasonable accommodation is enforceable from the moment a request for such accommodation is made.¹⁰ Policies that commit to reasonable accommodation must be adopted at the national, local and educational institution levels, and at all levels of education. The extent to which reasonable accommodation is provided must be considered in the light of the overall obligation to develop an inclusive education system, maximizing the use of existing resources and developing new ones. Using a lack of resources and the existence of

¹⁰ 身心障礙者權利委員會，第 2 號一般性意見。

Committee on the Rights of Persons with Disabilities, general comment No. 2.

financial crises to justify failure to make progress towards inclusive education violates article 24.

29. 委員會重申「提供無障礙可及性的責任」與「提供合理調整的義務」之間的區別。¹¹「無障礙／可及性」可以使群體獲益，是一套允許逐步實施的標準。不應以不合比例原則或過度負擔作為不提供無障礙環境的藉口。至於「合理調整」則是針對個人，是一種補充無障礙責任的措施。即使締約國履行了提供無障礙環境的責任，個人也可以正當地要求提供合理調整。

29. The Committee reiterates the distinction between the general accessibility duty and the obligation to provide reasonable accommodation.¹¹ Accessibility benefits groups of the population and is based on a set of standards that are implemented gradually. Disproportionality or undue burden cannot be claimed to defend the failure to provide accessibility. Reasonable accommodation relates to an individual and is complementary to the accessibility duty. An individual can legitimately request reasonable accommodation measures even if the State party has fulfilled its accessibility duty.

30. 「合乎比例原則」的定義必然會視情況而定。能提供何種調整措施應視整個教育系統可得資源而定，而不是侷限於所涉教育機構內的可用資源；教育系統內的資源應該可以移轉。合理調整不能「一體適用」，因為有同類型損傷的不同學生所要求的調整措施也可能有所不同。調整措施可以包括：改變上課地點；提供不同的課堂溝通形式；放大字體、符號教材、或提供其他形式的課堂講義；提供學生筆記抄寫員或翻譯員，或允許學生在學習和考試中使用輔助科技。還必須考慮提供非物質性的調整措施，例如給予某個學生延長時間、降低背景噪音（對感官過度敏感）、採用替代評量方法、替代課程等。為確保調整措施能符合學生需求、意願、喜好和選擇，且是教育機構能夠提供的，必須由教育當局和教育提供者、學校單位、身心障礙學生和家長（考慮

¹¹ 同上。

Ibid.

學生的年齡和能力，適當時邀其家長、照顧者或其他家人) 之間進行討論。提供合理調整不能只依據身心障礙者的醫療診斷，而應基於其接受教育所遭遇之社會阻礙的評估結果。

30. The definition of what is proportionate will necessarily vary according to context.

The availability of accommodations should be considered with respect to a larger pool of educational resources available in the education system and not limited to resources available at the academic institution in question; transfer of resources within the system should be possible. There is no “one size fits all” formula to reasonable accommodation, as different students with the same impairment may require different accommodations. Accommodations may include: changing the location of a class; providing different forms of in-class communication; enlarging print, materials and/or subjects in signs, or providing handouts in an alternative format; and providing students with a note taker or a language interpreter or allowing students to use assistive technology in learning and assessment situations. Provision of non-material accommodations, such as allowing a student more time, reducing levels of background noise (sensitivity to sensory overload), using alternative evaluation methods and replacing an element of the curriculum with an alternative must also be considered. To ensure that the accommodation meets the requirements, will, preferences and choices of students and can be implemented by the institution provider, discussions must take place between the educational authorities and providers, the academic institution, students with disabilities and, depending on the students’ age and capacity, if appropriate, their parents, caregivers or other family members. Provision of reasonable accommodation may not be conditional on a medical diagnosis of impairment and should be based instead on the evaluation of social barriers to education.

31. 拒絕提供合理調整便構成歧視，提供合理調整是立即適用、而非逐步實現的責任。締約國必須確保由獨立的系統負責監督所提供調整措施之適當性和有

效性，並能提供安全、及時和無障礙的補救機制，讓身心障礙學生與有關的家人在認為他們沒有得到適當調整或遭受歧視時可訴諸該機制。要有必要措施保護受歧視者在尋求補救的過程中不受迫害。

31. The denial of reasonable accommodation constitutes discrimination and the duty to provide reasonable accommodation is immediately applicable and not subject to progressive realization. States parties must ensure that independent systems are in place to monitor the appropriateness and effectiveness of accommodations and provide safe, timely and accessible mechanisms for redress when students with disabilities and, if relevant, their families, consider that they have not been adequately provided or have experienced discrimination. Measures to protect victims of discrimination against victimization during the redress process are essential.

32. 為落實第 24 條(2) (d)，應當讓身心障礙學生有權獲得他們所需要的支持，以促成他們有效地接受教育，使他們能夠與其他人平等地發揮潛能。教育系統內普遍提供的支持服務和設施，應確保身心障礙學生能夠盡可能發揮潛能，包括：提供經過充分訓練和受到支持的教學人員、學校輔導人員、心理學家和其他相關的保健和社會服務專業人員，以及提供獎助學金和財務資源。

32. For article 24 (2) (d) to be implemented, students with disabilities should be entitled to the support they require to facilitate their effective education and enable them to fulfil their potential on an equal basis with others. Support in terms of general availability of services and facilities within the education system should ensure that students with disabilities are able to fulfil their potential to the maximum extent possible, including, for example, the provision of sufficiently trained and supported teaching staff, school counsellors, psychologists and other relevant health and social service professionals, as well as access to scholarships and financial resources.

33. 為落實第 24 條(2) (e)，應直接提供適當、持續和個別化的支持。委員會強調需要提供個別化教育計畫，以指出每個學生需要的合理調整和特定支持，包

括提供輔助工具、以替代／無障礙的形式呈現的特定學習材料、溝通模式和工具、溝通輔具和資訊科技。支持也可以包括合格的學習助理，可採取一對多或一對一的方式，視學生需求而定。從隔離環境轉換到主流環境的學習者、以及轉換教育階段的學生，其個別化教育計畫必須提及其轉銜經驗。應定期監督和評估該計畫的有效性，並由學生本人直接參與。支持服務的性質必須與學生共同確定，適當時其父母、照顧者或其他第三方人士可共同決定。如果學習者未得到支持、或支持不適當，必須有可及的求助管道。

33. For article 24 (2) (e) to be realized, adequate, continuous and personalized support is to be provided directly. The Committee emphasizes the need to provide individualized education plans that can identify the reasonable accommodations and specific support required by individual students, including the provision of assistive compensatory aids, specific learning materials in alternative/accessible formats, modes and means of communication, communication aids and assistive and information technology. Support can also consist of a qualified learning support assistant, either on a shared or on a one-to-one basis, depending on the requirements of the student. Individualized education plans must address the transitions experienced by learners who move from segregated to mainstream settings and between levels of education. The effectiveness of such plans should be regularly monitored and evaluated with the direct involvement of the learner concerned. The nature of the provision must be determined in collaboration with the student, together, where appropriate, with the parents, caregivers or other third parties. The learner must have access to recourse mechanisms if the support is unavailable or inadequate.

34. 任何支持措施都必須符合融合目標。因此，這些措施的設計，應提供身心障礙學生更多與同儕一起參加課堂和校外活動的機會，而不是將他們邊緣化。

34. Any support measures provided must be compliant with the goal of inclusion. Accordingly, they must be designed to strengthen opportunities for students with disabilities to participate in the classroom and in out-of-school activities alongside

their peers, rather than marginalize them.

35. 關於第 24 條(3)，許多締約國未能為身心障礙者作出適當的安排（特別是自閉症、溝通障礙或感官失能），讓他們獲得在接受教育和在社區內所必須具備的生活、語言和社會技能：

35. Regarding article 24(3), many States parties are failing to make appropriate provision for persons with disabilities, in particular persons on the autism spectrum, those with communication impairments and those with sensory disabilities, to acquire the life, language and social skills essential for participation in education and within their communities:

(a) 必須為盲人和弱視學生提供學習點字、替代文本、輔助溝通系統（模式、工具和形式），以及定向行動技能的機會。應支持促進學習的適當科技和替代溝通系統的投資。應引進並鼓勵同儕支持和良師引導的機制；

(a) Blind and partially sighted students must be provided with opportunities to learn Braille, alternative script, augmentative and alternative modes, means and formats of communication, as well as orientation and mobility skills. Investment in access to appropriate technology and alternative communication systems to facilitate learning should be supported. Peer support and mentoring schemes should be introduced and encouraged;

(b) 必須提供聾和重聽學生學習手語的機會，並且承認和推動聾人社群的語言認同。委員會提請締約國注意《反教育歧視公約》，其中規定兒童有權以自己的語言接受教育，並提醒締約國，根據《身心障礙者權利公約》第 30 條(4)，身心障礙者基於與其他人平等，有權承認和支持其特有的文化和語言認同，包括手語和聾文化。此外，重聽學生須能近用優質的語言治療服務、感應線圈科技和字幕；

(b) Deaf and hard-of-hearing students must be provided with the opportunity to learn sign language and measures must be taken to recognize and promote the linguistic identity of the deaf community. The Committee draws the attention of States parties

to the Convention against Discrimination in Education, which establishes the right of children to be taught in their own language, and reminds States parties that, in line with article 30 (4) of the Convention on the Rights of Persons with Disabilities, persons with disabilities are entitled, on an equal basis with others, to recognition of and support for their specific cultural and linguistic identity, including sign languages and deaf culture. In addition, hard-of-hearing students must also have access to quality speech therapy services, induction loop technology and captioning;

(c) 提供給盲、聾、或盲聾學生的教育，必須用最適合個人的語言及溝通模式／工具，並且必須在能夠促成其個人、學業和社會的最大發展的環境（不論校內校外）下實施。委員會強調，要想有這種融合環境存在，締約國應提供所需支持，包括藉由資源、輔助科技、及定向行動技能；

(c) Students who are blind, deaf or deafblind must be provided with education delivered in the most appropriate languages and modes and means of communication for the individual, and in environments which maximize personal, academic and social development both within and outside formal school settings. The Committee emphasizes that, for such inclusive environments to exist, States parties should provide the required support, including by way of resources, assistive technology and orientation and mobility skills;

(d) 必須讓溝通障礙學習者有機會表達自己的意見，並學習使用輔助溝通系統。這可以包括提供手語、低科技或高科技的溝通輔具，例如有語音輸出的平板電腦、語音輸出的溝通裝置或有聲書。締約國應投資於專門知識、科技和服務的發展，以提升近用適當科技和替代溝通系統，促進學習；

(d) Learners with communication impairments must be provided with the opportunity to express themselves and learn using alternative or augmentative communication. This may include the provision of sign language, low- or high-technology communication aids such as tablets with speech output, voice output communication aids or communication books. States parties should invest in developing expertise,

technology and services in order to promote access to appropriate technology and alternative communication systems to facilitate learning;

- (e) 針對社交溝通困難的學習者，必須經由課堂組織的調整以提供支持。課堂組織的調整包括分組、同儕小老師、靠近教師的座位、以及營造結構化和可預測的環境；
- (e) Learners with social communication difficulties must be supported through adaptations to classroom organization, including work in pairs, peer tutoring, seating close to the teacher and the creation of a structured and predictable environment;
- (f) 對於智能障礙學習者，必須在安全、安靜和結構化的學習環境中，提供具體、可觀察／視覺的、易讀的教導與學習材料，並側重培養學生獨立生活和從事工作的能力。締約國應投資於採用替代教學策略和評量方法的融合互動課堂。
- (f) Learners with intellectual impairments must be provided with concrete, observable/visual and easy-to-read teaching and learning materials within a safe, quiet and structured learning environment, targeting capacities that will best prepare students for independent living and vocational contexts. States parties should invest in inclusive interactive classrooms where use is made of alternative instructional strategies and assessment methods.
36. 為落實第 24 條(4)，締約國必須採取適當措施聘用行政、教學和非教學人員，他們必須有能力在融合教育環境下有效工作，需具備合格的手語和／或點字、和定向行動技能。擁有數量足夠的合格、忠於職守的學校工作人員是引進和維持融合教育的關鍵。缺乏認識和能力不足仍然是融合的重大阻礙。締約國必須確保所有教師都在融合教育環境下接受訓練，並確保訓練是基於身心障礙的人權模式。
36. To realize article 24 (4), States parties are required to take appropriate measures to employ administration, teaching and non-teaching staff with the skills to work effectively in inclusive education environments, qualified in sign language and/or Braille and with orientation and mobility skills. Having an adequate number of

qualified and committed school staff is key to the introduction and sustainability of inclusive education. Lack of understanding and capacity remain significant barriers to inclusion. States parties must ensure that all teachers are trained in inclusive education and that that training is based on the human rights model of disability.

37. 締約國必須投資和支持身心障礙教師的聘用和進修，包括排除相關立法或政策阻礙，不再要求應聘者要達到特定的健康檢查標準，並為他們參與教師工作提供合理調整。身心障礙教師的存在，將可提升身心障礙者進入教師行業的平等權利，給教學環境帶來獨特的專業資產和技能，有助於消除阻礙，並成為重要的角色楷模。

37. States parties must invest in and support the recruitment and continuous education of teachers with disabilities. This includes removing any legislative or policy barriers requiring candidates to fulfil specific medical eligibility criteria and the provision of reasonable accommodations for their participation as teachers. Their presence will serve to promote equal rights for persons with disabilities to enter the teaching profession, bring unique expertise and skills into learning environments, contribute to breaking down barriers and serve as important role models.

38. 為落實第 24 條(5)，締約國應當確保身心障礙者能夠在不受歧視和與其他人平等的基礎上，獲得中學後教育、職業訓練、成人教育和終生學習機會。各階段的教育如果有態度、物理、語言、溝通、資金、法律和其他方面的阻礙都必須查明並加以排除，以確保機會平等。必須提供合理調整，以確保身心障礙者不受歧視。締約國應考慮在中學後教育階段採取有利於身心障礙學習者的積極平權措施（affirmative action measures，或稱優惠性差別待遇）。

38. To give effect to article 24 (5), States parties should ensure that persons with disabilities are able to access general tertiary education, vocational training, adult education and lifelong learning without discrimination and on an equal basis with others. Attitudinal, physical, linguistic, communication, financial, legal and other barriers to education at these levels must be identified and removed in order to ensure

equal access. Reasonable accommodation must be provided to ensure that persons with disabilities do not face discrimination. States parties should consider taking affirmative action measures in tertiary education in favour of learners with disabilities.

三、締約國的義務

III. Obligations of States parties

39. 締約國應該尊重、保護和實現融合教育的權利，這項權利的基本特徵為：可得、可及、可接受和可調適。所謂「尊重」的義務，要求避免採取任何會妨礙享有該項權利的措施，例如立法將某些身心障礙兒童排除在教育之外，或是拒絕提供可及性或合理調整。「保護」的義務要求採取一些措施，以防止第三方干預這項權利的享有，例如父母拒絕送身心障礙女童上學，或私立機構以身心障礙為由拒絕招收身心障礙者。「實現」的義務要求採取措施促成和協助身心障礙者享有受教權，例如確保教育機構的可及性，並確保教育系統可以適當調整其資源和服務。

39. States parties should respect, protect and fulfil each of the essential features of the right to inclusive education: availability, accessibility, acceptability and adaptability. The obligation to respect requires avoiding measures that hinder the enjoyment of the right, such as legislation excluding certain children with disabilities from education, or the denial of accessibility or reasonable accommodation. The obligation to protect requires taking measures that prevent third parties from interfering with the enjoyment of the right, for example, parents refusing to send girls with disabilities to school, or private institutions refusing to enroll persons with disabilities on the basis of their impairment. The obligation to fulfil requires taking measures that enable and assist persons with disabilities to enjoy the right to education, for example, ensuring that educational institutions are accessible and that education systems are adapted appropriately with resources and services.

40. 第 4 條(2)要求各締約國儘量利用它們在經濟、社會及文化權利方面的現有資源，並於必要時進行國際合作，以採取措施逐步實現這些權利。逐步實現意味著締約國負有明確、持續的義務，儘速採取能有效落實第 24 條內涵的持續性行動。¹² 逐步實現與維持兩個教育系統（主流教育體系和特殊／隔離教育體系）不能相容。「逐步實現」必須連同《公約》的整體目標一併解讀，以確定締約國充分實現各項權利的明確義務。同樣地，鼓勵締約國重新確定教育預算的分配，包括將部分預算轉移到發展融合教育上。這方面任何刻意的倒退措施，不應不合比例地針對任何教育階段的身心障礙學習者。¹³ 這些倒退措施只能是臨時性的，僅限於危機時期，且必須是必要、合乎比例、不歧視的，並包含所有可能減輕不平等的措施。¹⁴

40. Article 4 (2) requires that States parties take measures to the maximum of their available resources regarding economic, social and cultural rights and, where needed, within a framework of international cooperation, with a view to achieving progressively the full realization of those rights. Progressive realization means that States parties have a specific and continuing obligation to move as expeditiously and effectively as possible towards the full realization of article 24.¹² This is not compatible with sustaining two systems of education: a mainstream education

¹² 見經濟、社會及文化權利委員會關於締約國義務的性質的第 3 號一般性意見(1990)，第 9 段。

See Committee on Economic, Social and Cultural Rights, general comment No. 3 (1990) on the nature of States parties' obligations, para. 9.

¹³ 同上。

Ibid.

¹⁴ 經濟、社會及文化權利委員會主席 2012 年 5 月 16 日致《經濟、社會及文化權利國際公約》締約國的信。

Letter dated 16 May 2012 by the Chair of the Committee on Economic, Social and Cultural Rights addressed to States parties to the International Covenant on Economic, Social and Cultural Rights.

system and a special/segregated education system. Progressive realization must be read in conjunction with the overall objective of the Convention to establish clear obligations for States parties in respect of the full realization of the rights in question. Similarly, States parties are encouraged to redefine budgetary allocations for education, including by transferring part of their budgets to the development of inclusive education. Any deliberately retrogressive measures in that regard must not disproportionately target learners with disabilities at any level of education.¹³ They must be only a temporary measure limited to the period of crisis, be necessary and proportionate, not be discriminatory and comprise all possible measures to mitigate inequalities.¹⁴

41. 逐步實現並不妨礙那些應立即適用的義務。正如經濟、社會及文化權利委員會在關於締約國義務的性質第 3 號一般性意見(1990)中所指出的，締約國有最基本的核心義務，要確保教育權的各個面向至少要達到最低必要程度。¹⁵ 因此，各締約國應立即落實以下核心權利：

41. Progressive realization does not prejudice those obligations that are immediately applicable. As the Committee on Economic, Social and Cultural Rights has stated in its general comment No. 3 (1990) on the nature of States parties' obligations, States parties have a minimum core obligation to ensure the satisfaction of, at the very least, minimum essential levels of each aspect of the right to education.¹⁵ Therefore, States parties should implement the following core rights with immediate effect:

(a) 在教育的各個方面都禁止歧視，包括所有國際上禁止的歧視理由。締約國必須確保教育不排斥身心障礙者，並消除結構性不利因素，以達成所有身心障礙者有效參與及平等。締約國必須立即採取步驟去除所有妨礙接受融合教育的法律、行政和其他形式的歧視。採取積極平權措施（affirmative action measures，或稱優惠性差別待遇），只要不致於維持群體間的不平等或不同標

¹⁵ 經濟、社會及文化權利委員會，第 3 號一般性意見。

Committee on Economic, Social and Cultural Rights, general comment No. 3.

準，就不構成教育上的歧視。

- (a) Non-discrimination in all aspects of education and encompassing all internationally prohibited grounds of discrimination. States parties must ensure non-exclusion from education for persons with disabilities and eliminate structural disadvantages to achieve effective participation and equality for all persons with disabilities. They must urgently take steps to remove all legal, administrative and other forms of discrimination impeding the right of access to inclusive education. The adoption of affirmative action measures does not constitute a violation of the right to non-discrimination with regard to education, so long as such measures do not lead to the maintenance of unequal or separate standards for different groups;
- (b) 提供合理調整，確保教育不排斥身心障礙者。未提供合理調整就構成基於身心障礙的歧視；
- (b) Reasonable accommodations to ensure non-exclusion from education for persons with disabilities. Failure to provide reasonable accommodation constitutes discrimination on the ground of disability;
- (c) 人人享受免費義務小學教育。締約國必須採取一切適當措施，在融合的基礎上保障所有身心障礙兒童和青少年享有這項權利。委員會敦促締約國按照《2030年教育行動綱領》，確保所有兒童和青少年能獲得並完成至少12年免費、由政府出資、具有融合和公平性的優質中小學教育，其中至少9年為義務教育；並確保所有失學兒童和青少年經由《2030年教育行動綱領》所列各種方式獲得優質教育。
- (c) Compulsory, free primary education available to all. States parties must take all appropriate measures to guarantee that right, on the basis of inclusion, to all children and youth with disabilities. The Committee urges States parties to ensure access to and completion of quality education for all children and youth to at least 12 years of free, publicly funded, inclusive and equitable quality primary and secondary education, of which at least nine years are compulsory, as well as access to quality

education for out-of-school children and youth through a range of modalities, as outlined in the Education 2030 Framework for Action.

42. 締約國必須通過並實施基於融合和機會均等的國家教育策略，為所有學習者提供各階段的教育。第 24 條(1)列出的各項教育目標，對各締約國賦予同等義務，因此各國都須迫切考慮。

42. States parties must adopt and implement a national educational strategy that includes the provision of education at all levels for all learners, on a basis of inclusion and equality of opportunity. The educational objectives set out in article 24 (1) place equivalent obligations on States parties and must therefore be regarded on a comparable basis of immediacy.

43. 關於國際合作，根據《永續發展目標》第 4 項和《2030 年教育行動綱領》，所有雙邊和多邊合作都必須力求促進融合和公平的優質教育，增進全民享有終身學習機會，包括支持其培養能力、分享資訊和交換最佳實踐、研究、技術和經濟協助，以及獲得可及的輔助科技。在教育方面所蒐集到的資料和所有國際援助都應按損傷類型分類。可考慮建立關於融合教育的國際協調機制，以執行《永續發展目標》第 4 項和蒐集佐證資料，如此將有助於加強政策對話和監測進展情形。

43. With regard to international cooperation, and in line with Sustainable Development Goal 4 and the Education 2030 Framework for Action, all bilateral and multilateral cooperation must aim to advance inclusive and equitable quality education and promote lifelong learning opportunities for all, including support for capacity-building, information-sharing and the exchange of best practices, research, technical and economic assistance, and access to accessible and assistive technologies. All data collected and all international assistance spent on education should be disaggregated by impairment. Consideration of an international coordination mechanism on inclusive education to implement Goal 4 and to build evidence will contribute to a better policy dialogue and to monitoring progress.

四、與《公約》其他規定之間的關係

IV. Relationship with other provisions of the Convention

44. 締約國必須了解所有人權是不可分割、相互依存的。要充分有效地實現其他權利，教育是不可或缺的。¹⁶ 反之，唯有落實其他權利，才有可能實現融合教育。更進一步地，融合教育必須基於整個社會創造出的融合環境。因此這就需要採取身心障礙的人權模式，該模式指出締約國有義務去除將身心障礙者排斥和邊緣化的社會阻礙，以及有必要採取措施，確保落實下列權利。

44. States parties must recognize the indivisibility and interdependence of all human rights. Education is integral to the full and effective realization of other rights.¹⁶ Conversely, the right to inclusive education can only be realized if certain other rights are implemented. Moreover, the right to inclusive education must be underpinned by the creation of inclusive environments throughout society. This will require the adoption of the human rights model of disability, which recognizes the obligation to remove societal barriers that serve to exclude and marginalize persons with disabilities and the need to adopt measures to ensure implementation of the rights set out below.

45. 第 5 條規定了法律面前人人平等的原則。締約國應當禁止一切基於身心障礙的歧視，為身心障礙者提供有效和平等的保護，使其不受任何原由的歧視。為處理系統性和結構性歧視，確保享有「法律給予的平等權益」，締約國必須採取積極平權措施（affirmative action measures，或稱優惠性差別待遇），例如去除所有妨礙進入主流教育的建築、溝通、或其他的阻礙。

45. Article 5 enshrines the principle of equal protection of all persons before and under the law. States parties must prohibit all disability-based discrimination and provide

¹⁶ 同上，關於初等教育行動計畫的第 11 號一般性意見(1999)和第 13 號一般性意見。

Ibid., general comment No. 11 (1999) on plans of action for primary education and general comment No. 13.

persons with disabilities effective and equal protection against discrimination on all grounds. To address systemic and structural discrimination and to ensure “equal benefit of the law”, States parties must take affirmative action measures, such as removing architectural and communicative or other barriers to mainstream education.

46. 第 6 條體認身心障礙婦女和女童受到多重歧視，締約國必須採取措施確保她們平等地享有權利。交織歧視和排斥造成身心障礙婦女和女童實現受教育權的重大阻礙。締約國必須查明並排除這些阻礙，包括基於性別的暴力與不重視對婦女及女童的教育，還必須採取具體措施確保受教育權不受性別和／或基於障礙的歧視、污名或偏見的影響。教科書和課程中關於性別和／或身心障礙的有害成見必須刪除。傳統的重男輕女和父權社會框架存在已久，對抗這種性別觀點，教育可扮演重要角色。¹⁷ 締約國必須確保身心障礙婦女和女童能持續接受教育和復健服務，作為她們發展、提高地位和賦權增能的途徑。

46. Article 6 recognizes that women and girls with disabilities are subject to multiple discrimination and that States parties must adopt measures to ensure the equal enjoyment of their rights. Intersectional discrimination and exclusion pose significant barriers to the realization of the right to education for women and girls with disabilities. States parties must identify and remove those barriers, including gender-based violence and the lack of value placed on the education of women and girls, and put in place specific measures to ensure that the right to education is not impeded by gender and/or disability discrimination, stigma or prejudice. Harmful gender and/or disability stereotypes in textbooks and curricula must be eliminated. Education plays a vital role in combating traditional notions of gender that perpetuate patriarchal and paternalistic societal frameworks.¹⁷ States parties must

¹⁷ 消除對婦女歧視委員會，「關於女童 / 婦女受教育權的一般性建議草案的概念說明」(2014 年)。

Committee on the Elimination of Discrimination against Women, “Concept note on the draft general recommendation on girls’/women’s right to education” (2014).

ensure access for and the retention of girls and women with disabilities in education and rehabilitation services, as instruments for their development, advancement and empowerment.

47. 第 7 條聲稱在所有跟身心障礙兒童有關的行動中，應當以兒童的最佳利益為首要考慮。「最佳利益」概念是為了確保兒童能充分有效地享有所有人權和確保兒童的整體發展。¹⁸ 決定身心障礙兒童的最佳利益時，必須考慮兒童自己的看法和認同、家庭的維繫、對兒童的照顧、保護和安全、身心任何特別脆弱之處、以及兒童的健康權和受教育權。《兒童權利公約》申明，制定教育政策和規定時，必須以兒童的最佳利益為基礎。第 7 條(3)進一步主張身心障礙兒童有權表達自己的意見；對所有會影響他們的事項，他們所表達的意見應當依其年齡和成熟程度，獲得與其他兒童平等的適當重視；並且必須提供他們適合其身心障礙狀況和年齡的協助。保障兒童參與其教育的權利必須同樣適用於身心障礙兒童，包括參與自己的學習和個別化教育計畫、課堂教學方法、經由學校相關會議參與制訂學校政策和制度，以及參與制定更廣泛的教育政策。¹⁹

47. Article 7 asserts that, in all actions concerning children with disabilities, the best interests of the child shall be a primary consideration. The concept of best interests is aimed at ensuring the full and effective enjoyment by the child of all human rights and the child's holistic development.¹⁸ Any determination of the best interests of a child with a disability must consider the child's own views and individual identity, the preservation of the family, care, protection and safety of the child, any particular

¹⁸ 兒童權利委員會關於兒童有權要求以自己的最大利益作為首要考慮的第 14 號一般性意見(2013)。

Committee on the Rights of the Child, general comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration.

¹⁹ 同上，關於兒童表達意見的權利的第 12 號一般性意見(2009)。

Ibid., general comment No. 12 (2009) on the right of the child to be heard.

vulnerability, and the child's right to health and education. The Convention on the Rights of the Child affirms that the best interests of the child must be the basis on which education policies and provisions are determined. Article 7 (3) further asserts that children with disabilities have the right to express their views and that their views on all matters affecting them should be given due weight, in accordance with their age and maturity, on an equal basis with other children, and that they must be provided with disability- and age-appropriate assistance. Guaranteeing the right of children to participate in their education must be applied equally to children with disabilities, in their own learning and individualized education plans, within the classroom pedagogy, through school councils, in the development of school policies and systems, and in the development of the wider educational policy.¹⁹

48. 第 8 條要求採取措施提高對身心障礙者的認識，挑戰對身心障礙者的成見、偏見和有害作法，特別是影響身心障礙婦女和女童、智能障礙者、以及高度支持需求者的措施。成見、偏見和有害作法構成妨礙就學和有效學習的阻礙。委員會注意到有些家長會將身心障礙子女轉出融合學校，原因是學校缺乏對身心障礙本質的認識和理解。締約國必須採取措施，建立多元、參與和融入社區生活的文化，並強調融合教育是為所有學生（不論是否身心障礙）、家長、教師和學校管理階層、以及社區和社會達成優質教育的途徑。締約國必須確保建立機制，以便在各級教育階段、在學生家長和廣大民眾中，推動尊重身心障礙者權利的態度。公民社會，特別是代表身心障礙者的組織，更應受邀參與所有宣導活動。

48. Article 8 calls for measures to raise awareness and challenge stereotypes, prejudices and harmful practices relating to persons with disabilities, targeting in particular practices affecting women and girls with disabilities, persons with intellectual disabilities and persons with intensive support requirements. Stereotypes, prejudices and harmful practices constitute barriers that impede both access to and effective learning within the education system. The Committee notes the practice of some

parents removing their children with disabilities from inclusive schools, on the basis of a lack of awareness and understanding of the nature of disability. States parties must adopt measures to build a culture of diversity, participation and involvement in community life and to highlight inclusive education as a means of achieving a quality education for all students, with and without disabilities, parents, teachers and school administrations, as well as the community and society. States parties must ensure that mechanisms are in place to foster, at all levels of the education system and among parents and the wider public, an attitude of respect for the rights of persons with disabilities. Civil society, in particular organizations representing persons with disabilities, should be involved in all awareness-raising activities.

49. 第 9 條與第 24 條密切相關。無障礙／可及性是身心障礙者充分平等參與社會的前提。沒有無障礙／可及的建築環境（包括學校和其他教育場所），沒有無障礙／可及的大眾交通、服務、資訊和通訊技術，身心障礙者就無法有效享有接受融合教育的權利。教學模式和工具都應具可及性，教學也應在無障礙／可及的環境中進行。身心障礙學生學習的所有場所都必須為促進融合而設計。融合教育也是推動無障礙／可及性和通用設計的有力工具。

49. Articles 9 and 24 are closely interconnected. Accessibility is a precondition for the full and equal participation of persons with disabilities in society. Persons with disabilities cannot effectively enjoy their right to inclusive education without an accessible built environment, including schools and all other places of education, and without accessible public transport, services, information and communications technologies. Modes and means of teaching should be accessible and teaching should be conducted in accessible environments. The whole environment in which students with disabilities learn must be designed in such a way as to foster inclusion. Inclusive education is also a powerful tool for the promotion of accessibility and universal design.

50. 委員會呼籲締約國注意委員會關於在法律面前獲得平等承認的第 1 號一般性意見(2014)，強調融合教育讓身心障礙學生有機會表達自己的意願和喜好，特別是有社會心理障礙或智能障礙的學生。締約國必須在各個教育階段提供必要支持(包括可依其意願減少未來的支持服務)，以確保融合教育支持身心障礙學習者建立行使法律能力的自信心。

50. The Committee calls States parties' attention to its general comment No. 1 (2014) on equal recognition before the law and stresses that inclusive education provides students with disabilities, in particular those with psychosocial or intellectual impairments, with an opportunity to express their will and preferences. States parties must ensure that inclusive education supports learners with disabilities in building their confidence to exercise legal capacity, providing the necessary support at all educational levels, including to diminish future requirements for support if they so wish.

51. 身心障礙者(尤其是身心障礙婦女和女童)可能特別容易受到暴力和虐待，包括受到教職人員的體罰和羞辱，像是使用束縛手段和關禁閉，以及在校內和上學途中被霸凌。為落實第 16 條(2)，締約國必須採取一切適當措施，以防範和保護免遭一切形式的剝削、暴力和虐待，包括對身心障礙者的性暴力。這些措施必須考慮年齡、性別和身心障礙因素。委員會強烈認可兒童權利委員會、人權事務委員會和經濟、社會及文化權利委員會的建議，即締約國應在一切場所(包括學校)禁止一切形式的體罰和其他殘忍、不人道、和有辱人格的待遇，並確保有效懲處犯罪者。²⁰ 委員會鼓勵學校和其他教育機構讓學生(包括身心障礙學生)參與政策制定，包括制定可近用的保護機制以處

²⁰ 同上，關於兒童受保護免遭體罰和其他殘忍或不人道形式懲罰的權利的第 8 號一般性意見(2006)。

Ibid., general comment No. 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment.

理懲戒措施和霸凌（包括網路霸凌）。霸凌已經被視為學生（尤其是兒童）生活中日益普遍的現象。

51. Persons with disabilities, in particular women and girls with disabilities, can be disproportionately affected by violence and abuse, including physical and humiliating punishments by educational personnel, for example through the use of restraints and seclusion and bullying by others in and en route to school. To give effect to article 16 (2), States parties are required to take all appropriate measures to provide protection from and prevent all forms of exploitation, violence and abuse, including sexual violence, against persons with disabilities. Such measures must be age-, gender- and disability-sensitive. The Committee strongly endorses the recommendations of the Committee on the Rights of the Child, the Human Rights Committee and the Committee on Economic, Social and Cultural Rights that States parties prohibit all forms of corporal punishment and cruel, inhuman and degrading treatment in all settings, including schools, and ensure effective sanctions against perpetrators.²⁰ It encourages schools and other educational centers to involve students, including students with disabilities, in the development of policies, including accessible protection mechanisms, to address disciplinary measures and bullying, including cyberbullying, which is increasingly recognized as a growing feature of the lives of students, in particular children.

52. 融合教育要求承認身心障礙者有權在社區中生活，並享有融入和社區參與（第 19 條）。它還要求承認身心障礙者有同等權利享受家庭生活，如果做不到這一點，則有權在社區內接受替代方式的照顧（第 23 條）。由締約國照顧的兒童，例如住在寄養家庭或教養院的兒童，必須確保他們接受融合教育的權利，並在締約國剝奪其權利時，有權提出申訴。太多身心障礙者的生活仰賴長期機構化的照顧，無法獲得社區本位的服務（包括教育），也無法同時享有家庭生活、社區生活、結社自由、免受暴力、和訴諸司法的權利。在當地社區實施融合教育時，必須同時做出策略性承諾，終止將身心障礙者安置在

機構中的做法（見下文第 66 段）。為使身心障礙者享受、受益、與貢獻於社區生活，身心障礙者須建立其優勢、技能和能力；締約國應注意到實踐融合教育在這些方面所能扮演的角色。

52. Inclusive education requires recognition of the right of persons with disabilities to live within the community and enjoy inclusion and participation in the community (art. 19). It also demands recognition of the equal right of persons with disabilities to a family life or, failing that, to alternative care within a community setting (art. 23). Children in the care of the State party, residing for example in foster care or care homes, must be ensured the right to inclusive education and the right to appeal against decisions of the State party that deny them the right to inclusive education. Too many persons with disabilities live in long-term institutional care, without access to community-based services, including education, consistent with their right to, inter alia, family life, community living, freedom of association, protection from violence and access to justice. The introduction of inclusive education in the local community must take place alongside a strategic commitment to ending the practice of placing persons with disabilities in institutions (see para. 66 below). States parties should note the role that exercising the right to inclusive education will play in building the strengths, skills and competencies necessary for all persons with disabilities to enjoy, benefit from and contribute to their local communities.

53. 為了有效實現融合教育，必須保障身心障礙者在獨立的基礎上具備個人行動能力（第 20 條）。在沒有可用的交通工具或個人助理協助前往教育機構的情況下，必須為身心障礙者提供適當的行動技能訓練（特別是盲人和視覺損傷人士），以提升其獨立性。締約國還應提供身心障礙者可負擔的行動輔具。

53. For inclusive education to be realized effectively, persons with disabilities must be guaranteed personal mobility on an independent basis (art. 20). Where transportation is not readily available and where there are no personal assistants to support access to educational institutions, persons with disabilities, in particular blind and visually

impaired persons, must be given adequate training in mobility skills to promote greater independence. States parties should also provide persons with disabilities with the opportunity to acquire mobility aids and appliances at an affordable cost.

54. 身心障礙者有權享有不受歧視及可達到之最高健康標準，全面實現此項權利是使其能有機會充分受益於教育的前提（第 25 條）。如果不能獲得健康或適當治療和護理，將會嚴重影響他們上學和有效學習的能力。締約國應制定顧及性別因素的健康、衛生和營養方案，將其納入教育服務中，並持續監測所有健康需求。制定這類方案應遵守通用設計和無障礙原則，應有學校護理人員定期探訪和進行健康篩檢，以及建立社區夥伴關係。必須提供適合身心障礙者年齡、全面和融合的性教育，此教育須基於科學證據、人權標準、與他人平等，並以其可及的方式實施。

54. Fulfilment of the right of persons with disabilities to enjoy the highest possible standard of health without discrimination (art. 25) is integral to the opportunity to benefit fully from education. The ability to attend educational environments and to learn effectively is seriously compromised if there is no access to health or to appropriate treatment and care. States parties should establish health, hygiene and nutrition programmes with a gender perspective that are integrated into education services and allow for the continual monitoring of all health needs. Such programmes should be developed on the principles of universal design and accessibility, provide regular school nurse visits and health screenings, and build community partnerships. Persons with disabilities, on an equal basis with others, must be provided with age-appropriate, comprehensive and inclusive sexuality education, based on scientific evidence and human rights standards, and in accessible formats.

55. 締約國必須採取有效措施，在教育系統內提供創健和復健服務，包括保健、職能、物理、社會、諮商和其他服務（第 26 條）。這些服務必須盡早開始，透過跨專業評估的學生優勢，支持學生獲得最高的獨立自主、個人尊嚴的尊

重、生理、心理、社會和職業能力的充分發展，以及各個生活層面的融入和參與。委員會強調支持發展社區本位復健服務的重要性，這種服務能及早發現問題並鼓勵同儕支持。

55. States parties must take effective measures to provide habilitation and rehabilitation services within the education system, including health-care, occupational, physical, social, counselling and other services (art. 26). Such services must begin at the earliest stage possible, be based on a multidisciplinary assessment of a student's strengths and support maximum independence, autonomy, respect of dignity, full physical, mental, social and vocational ability and inclusion and participation in all aspects of life. The Committee stresses the significance of supporting the development of community-based rehabilitation that addresses early identification and encourages peer support.

56. 優質融合教育必須讓身心障礙者為職業生活做準備，獲得所需的知識、技能和自信，以進入開放的勞動市場，及參與開放、融合和無障礙／可及的工作環境（第 27 條）。

56. Quality inclusive education must prepare persons with disabilities for work life through the acquisition of the knowledge, skills and confidence necessary for participation in the open labour market and in an open, inclusive and accessible work environment (art.27).

57. 透過落實融合教育的權利，可以提升政治和公共生活的充分參與。所有學生的課程都必須包括公民的主題以及自我倡議和自我代表的技能，為參與政治和社會的過程奠定基礎。公共事務包括籌組和參加學生組織，例如學生會；且締約國應推動創造「讓身心障礙者可以用自己選擇的溝通方式和語言，籌組、加入、和充分有效地參與此類學生組織」的環境（第 29 條）。

57. Full participation in political and public life is enhanced through the realization of the right to inclusive education. Curricula for all students must include the topic of citizenship and the skills of self-advocacy and self-representation as a fundamental

basis for participation in political and societal processes. Public affairs include forming and participating in student organizations such as student unions and States parties should promote the creation of an environment in which persons with disabilities can form, join and effectively and fully participate in such student organizations through the forms of communication and language of their choice (art. 29).

58. 締約國必須消除阻礙，促進融合機會的可及性和可得性，讓身心障礙者有機會與他人平等地參加校內的遊戲、休閒和體育活動以及課外活動，包括其他教育環境下的這類活動（第 30 條）。²¹ 教育環境中必須採取適當措施確保身心障礙者能有機會接觸文化生活，也能發展並運用自己的創造力、藝術和智力潛能，如此不只自身獲益也使社會更充實。此類措施必須確保身心障礙者的特有文化和語言（包括手語和聾文化）有權獲得他人的認同。

58. States parties must remove barriers and promote accessibility and availability of inclusive opportunities for persons with disabilities to participate on an equal basis with others in play, recreation and sports in the school system and in extracurricular activities, including in other educational environments (art. 30).²¹ Appropriate measures must be in place within the educational environment to ensure opportunities for persons with disabilities to access cultural life and to develop and utilize their creative, artistic and intellectual potential, not only for their own benefit but also for the enrichment of society. Such measures must ensure that persons with disabilities are entitled to recognition of their specific cultural and linguistic identity, including sign languages and deaf culture.

²¹ 同上，關於兒童享有休息和閒暇、從事遊戲和娛樂活動、參加文化生活和藝術活動的權利的第 17 號一般性意見(2013)。

Ibid., general comment No. 17 (2013) on the right of the child to rest, leisure, play, recreational activities, cultural life and the arts.

五、國家層級的施行

V. Implementation at the national level

59. 委員會已指出締約國執行第 24 條所面臨的一些挑戰。為了執行身心障礙者融合教育制度並能維持長久，需要在國家層級採取以下措施。

59. The Committee has identified a number of challenges facing States parties in the implementation of article 24. In order to implement and sustain an inclusive education system for all persons with disabilities, the measures below need to be addressed at the national level.

60. 教育部必須負責身心障礙者以及其他人的各階段教育工作。在許多國家，身心障礙者教育因為由社會福利部門或衛生部門負責而被邊緣化，導致身心障礙者教育被排除在主流的立法、政策、規劃和資源配置外，身心障礙者的人均教育投資水準較低，缺乏全面性和一致的結構以支持融合教育，缺乏全面收集入學、在校和學業成就的資料，也未能發展融合的師資培育。締約國必須儘速採取措施，由教育部負責身心障礙學習者的教育。

60. Responsibility for the education at all levels of persons with disabilities, as well as for the education of others, must rest with the education ministry. In many countries, the education of persons with disabilities is currently marginalized within ministries of social welfare or health, which has resulted in, inter alia, exclusion from mainstream legislation, policies, planning and resourcing for education, lower levels of per capita investment in the education of persons with disabilities, a lack of overarching and coherent structures to support inclusive education, a lack of integrated data collection on enrolment, retention and attainment, and a failure to develop inclusive teacher education. States parties must urgently take measures to put the education of learners with disabilities under the competence of the ministry of education.

61. 締約國必須確保整個政府體系承諾全面性及跨部會推動融合教育。單憑教育部不可能實現融合教育。各相關部會業務涉及《公約》實質條款者，各該部

會必須承諾實施融合教育，而且對於融合教育的意義應有所共識，方能以統整的步調朝向一致的期程目標共同合作。締約國必須有課責措施，以確保所有相關部會履行承諾。締約國應與以下各方建立夥伴關係：服務提供者、代表身心障礙者的組織、媒體、公民社會組織、地方政府、學生會和聯盟、大學和師資培育大學。

61. States parties must ensure a comprehensive and intersectoral commitment to inclusive education throughout the government. Inclusive education cannot be realized by education ministries in isolation. All relevant ministries and commissions with responsibilities that cover substantive articles of the Convention must commit to and align their understanding of the implications of an inclusive education system in order to achieve an integrated approach and to work collaboratively towards a shared agenda. Accountability measures for all ministries involved must be put into place to uphold such commitments. Partnerships should also be forged with service providers, organizations representing persons with disabilities, the media, civil society organizations, local authorities, student associations and federations, universities and teacher education colleges.

62. 締約國的各層級政府必須頒布法律並依法執行，以身心障礙人權模式為基礎，完全符合第 24 條規範。委員會提醒注意第 4 條(5)，聯邦制國家需確保第 24 條在所有聯邦單位中執行，沒有限制或例外。

62. States parties, at every level, must implement or introduce legislation based on the human rights model of disability that fully complies with article 24. The Committee recalls that article 4 (5) requires federal States to ensure that article 24 is implemented, without limitations or exceptions, in all parts of the State party.

63. 締約國必須為融合教育引進全面性、協調的法律和政策框架，並規定明確適當的實施期程和違反者的懲處。此框架必須能處理所有學習者在各教育機構中的彈性、多樣和平等的議題，並確認各級政府的責任。關鍵要素包括：

63. A comprehensive and coordinated legislative and policy framework for inclusive

education must be introduced, together with a clear and adequate time frame for implementation and sanctions for violations. Such a framework must address issues of flexibility, diversity and equality in all educational institutions for all learners and identify responsibilities at all levels of government. Key elements will include:

- (a) 遵守國際人權標準；
- (a) Compliance with international human rights standards;
- (b) 明確定義「融合」及其在各教育階段力求實現的具體目標。融合原則和做法必須被視為改革的必要部分，而不僅僅是一項附加方案；
- (b) A clear definition of inclusion and the specific objectives it seeks to achieve at all educational levels. Inclusion principles and practices must be considered as integral to reform, and not simply as an add-on programme;
- (c) 以接受融合教育的實質性權利作為立法的關鍵要素。例如：締約國必須廢除將某些類型的學生界定為「不可教育」的條款；
- (c) A substantive right to inclusive education as a key element of the legislative framework. Provisions that define certain categories of students as “uneducable”, for example, must be repealed;
- (d) 不論學生有無障礙，保證其在一般教育體系下都享有同等權利，獲得融合學習機會，而且每個學習者在各階段都能獲得必要的支持服務；
- (d) A guarantee for students with and without disabilities to the same right to access inclusive learning opportunities within the general education system and, for individual learners, to the necessary support services at all levels;
- (e) 要求所有新學校的設計和建造都需遵守通用設計原則，符合無障礙／可及性標準；同時按照委員會第 2 號一般性意見，訂定期程改善現有不合規範的校舍。鼓勵運用政府採購措施執行之；
- (e) A requirement for all new schools to be designed and built following the principle of universal design through accessibility standards, together with a time frame for adapting existing schools in line with the Committee’s general comment No. 2. The

use of public procurement to implement this element is encouraged;

- (f) 引進融合教育的整體品質標準和障礙者融合的監測機制，以追蹤各階段的進展，確保政策和方案的執行，並有所需資源的支持；
- (f) The introduction of comprehensive quality standards for inclusive education and disability-inclusive monitoring mechanisms to track progress in implementation at all levels and ensure that policies and programmes are implemented and backed by the requisite investment;
- (g) 引進可及的監測機制，確保政策的落實和所需資源的提供；
- (g) The introduction of accessible monitoring mechanisms to ensure the implementation of policies and the provision of the requisite investment;
- (h) 要承認以合理調整（係基於人權標準而非資源的有效運用）支持融合是必要的，同時需懲罰未提供者；
- (h) Recognition of the need for reasonable accommodations to support inclusion, based on human rights standards rather than on the efficient use of resources, together with sanctions for failure to provide reasonable accommodation;
- (i) 在所有可能影響融合教育的立法中明確聲明：融合是一項具體目標；
- (i) The clear statement, in all legislation with the potential to have an impact on inclusive education, that inclusion is a concrete goal;
- (j) 為使身心障礙者能夠在融合學習環境中充分發展，所需的早期鑑定、評估和支持要有一致的架構；
- (j) A consistent framework for the early identification, assessment and support required to enable persons with disabilities to flourish in inclusive learning environments;
- (k) 地方政府有義務為所有融合場所和課堂內的學習者（包括身心障礙學生）訂定計畫和安排支持服務，包括使用最適當的語言、無障礙／可及的形式、及溝通模式和方法；
- (k) The obligation for local authorities to plan and provide for all learners, including persons with disabilities, within inclusive settings and classes, including in the most

appropriate languages, accessible formats and modes and means of communication;

(l) 立法保障所有身心障礙者（含身心障礙兒童）在教育系統內（包括經由學校各種會議、主管單位、地方和中央政府等）有表意權，且其意見得到適當考慮，並有就教育相關裁決提出質疑和申訴的機制；

(l) Legislation to guarantee to all persons with disabilities, including children with disabilities, the right to be heard and to have their opinion be given due consideration within the education system, including through school councils, governing bodies, local and national governments, and mechanisms through which to challenge and appeal decisions concerning education;

(m) 在各利害關係方之間建立夥伴關係和協調機制。利害關係方包括身心障礙者（透過代表身心障礙者的組織）、不同機構、發展組織、非政府組織、家長或照顧者。

(m) The creation of partnerships and coordination between all stakeholders, including persons with disabilities through their representative organizations, different agencies, development organizations, non-governmental organizations and parents or caregivers.

64. 立法必須受到教育部門計畫的支持，發展該計畫時需與身心障礙者（包括身心障礙兒童）組織協商，並詳細規劃實施融合教育體系的步驟。計畫應包含期程和可測量的目標，包括如何確保一致性的措施。該計畫應先收集對融合教育當前背景的整體分析，才能為評量未來進展提供一個基準線，內容包括下列資訊：如當前的預算分配、資料收集方法的品質、身心障礙兒童失學人數、挑戰和阻礙、現行法律和政策、以及身心障礙者、其家庭和締約國主要關切之處。

64. Legislation must be supported by an education sector plan, developed in consultation with organizations of persons with disabilities, including children with disabilities, and detailing the process for the implementation of an inclusive education system. It should contain a time frame and measurable goals, including

measures to ensure consistency. The plan should be informed by a comprehensive analysis of the current context pertaining to inclusive education in order to provide a baseline from which to progress, including data on, for example, current budgetary allocations, quality of data collection methods, numbers of children with disabilities out of school, challenges and barriers, existing laws and policies, key concerns of persons with disabilities, families and the State party.

65. 締約國必須建立獨立、有效、可及、透明、安全和可強制執行的申訴機制和法律救濟，以處理違反受教育權的情事。身心障礙者必須能夠訴諸司法系統，司法系統應當知道如何為身心障礙者提供調整，並且能夠處理涉及身心障礙的權利主張。締約國必須確保向身心障礙者充分傳達和公開宣傳有關於受教育權的資訊，以及當這一權利被否決或侵犯時如何陳情抗議；上述過程宜有代表身心障礙者的組織參與其中。

65. States parties must introduce independent, effective, accessible, transparent, safe and enforceable complaints mechanisms and legal remedies in cases of violations of the right to education. Persons with disabilities must have access to justice systems that understand how to accommodate persons with disabilities and are capable of addressing disability-based claims. States parties must also ensure that information about the right to education and about how to challenge a denial or violation of that right must be widely disseminated and publicized to persons with disabilities, with the involvement of their representative organizations.

66. 融合教育與機構化是不相容的。締約國必須計畫周密、有條理的實施身心障礙者「去機構化」過程。這個過程必須包含以下內容：有管理的轉銜，並明確規定轉銜期限；立法規定發展社區本位的服務；重新分配經費，採用多專業模式以支持和加強社區本位的服務；提供家庭支持；以及與代表身心障礙者（包括身心障礙兒童）的組織、家長或照顧者進行合作和諮詢。在尚未完成去機構化之前，應當透過連結社區內融合式的教育機構，讓接受機構化照顧者可以立即得到融合教育。

66. Inclusive education is incompatible with institutionalization. States parties must engage in a well-planned and structured process of de-institutionalization of persons with disabilities. Such a process must address: a managed transition setting out a defined time frame for the transition; the introduction of a legislative requirement to develop community based provision; the re-direction of funds and the introduction of multidisciplinary frameworks to support and strengthen community-based services; the provision of support for families; and collaboration and consultation with organizations representing persons with disabilities, including children with disabilities, as well as parents or caregivers. Pending the process of de-institutionalization, persons in institutional care settings should be given access to inclusive education with immediate effect by linking them with inclusive academic institutions in the community.

67. 早期介入對身心障礙兒童特別有價值，可加強他們受益於教育的能力，也可提高入學率和出席率。所有這些介入措施都必須保證尊重兒童的尊嚴和自主性。根據《2030年永續發展議程》，包括永續發展目標第4項，都敦促締約國確保所有兒童獲得優質的幼兒發展、照護和學前教育，並提供身心障礙幼兒家長和照顧者支持和訓練。如果能及早發現並提供支持，身心障礙幼兒就能更順利轉銜進入學前和小學的融合教育環境。締約國必須確保所有相關部會、主管部門和機構、以及身心障礙者組織和其他非政府夥伴之間的協調行動。

67. Early childhood interventions can be particularly valuable for children with disabilities, serving to strengthen their capacity to benefit from education and promoting their enrolment and attendance. All such interventions must guarantee respect for the dignity and autonomy of the child. In line with the 2030 Agenda for Sustainable Development, including Sustainable Development Goal 4, States parties are urged to ensure access to quality early childhood development, care and pre-primary education, together with the provision of support and training to parents and

caregivers of young children with disabilities. If identified and supported early, young children with disabilities are more likely to transition smoothly into pre-primary and primary inclusive education settings. States parties must ensure coordination between all relevant ministries, authorities and bodies as well as organizations of persons with disabilities and other non-governmental partners.

68. 根據第 31 條，締約國為履行第 24 條規定的義務，必須收集適當的分組資料以制定政策、計畫和方案。締約國必須設法解決缺乏各類損傷者盛行率精確資料的問題，以及缺乏充足、優質的研究與資料，以了解入學、在校和升學情況、提供合理調整情況、及有關結果等方面的問題。人口普查、調查和行政資料（包括教育管理資訊系統的資料），必須有身心障礙學生（含住在機構內者）的資訊。締約國應收集妨礙身心障礙者獲得、繼續接受、以及升學於融合優質教育之因素的分組資料和證據，以便能夠採取有效措施排除這些阻礙。締約國必須採取對應策略，處理在標準的量化和質化資料收集機制中將身心障礙者排除在外的情形，包括家長不願承認家有身心障礙子女、沒有出生登記、或因接受機構照顧而被遺漏等。

68. In accordance with article 31, States parties must collect appropriate disaggregated data to formulate policies, plans and programmes to fulfil their obligations under article 24. They must introduce measures to address the lack of accurate data on prevalence of persons with different impairments, as well as the lack of sufficient quality research and data relating to access to, permanence in and progress within education, provision of reasonable accommodation and the associated outcomes. Census, survey and administrative data, including data from the Education Management Information System, must capture information on students with disabilities, including those still living in institutional settings. States parties should also gather disaggregated data and evidence on the barriers that prevent persons with disabilities from having access to, remaining in and making progress in inclusive quality education to enable the adoption of effective measures to dismantle such

barriers. Strategies must be adopted to overcome the exclusion of persons with disabilities from standard quantitative and qualitative data-gathering mechanisms, including when it results from parents' reluctance to admit the existence of a child with a disability, the lack of birth registration and invisibility within institutions.

69. 締約國按照逐步實現原則，教育部門和跨部門在制定計畫支持實施融合教育時，必須全程承諾投入充足的財務和人力資源。締約國必須改革其治理制度和財政機制，以確保所有身心障礙者的受教權。締約國在分配預算時，還應利用政府採購過程下的現有機制以及與私營部門的夥伴關係。此外，這些款項必須優先分配於下列事項，包括而不限於：確保有充足資源在規定時間內改造無障礙的教育環境、投資在融合的師資培育、提供可得的合理調整、提供上學無障礙／可及交通服務、提供適當和無障礙的課本和教學材料、提供輔助科技和手語、進行宣導措施以消除污名和歧視現象，特別是教育環境中的霸凌。

69. States parties must commit sufficient financial and human resources throughout the development of an education sector plan and of cross-sectoral plans to support the implementation of inclusive education, consistent with the principle of progressive realization. States parties must reform their governance systems and financing mechanisms to ensure the right to education of all persons with disabilities. They should also allocate budgets using mechanisms available under public procurement processes and partnerships with the private sector. These allocations must prioritize, inter alia, ensuring adequate resources for rendering existing educational settings accessible in a time-bound manner, investing in inclusive teacher education, making available reasonable accommodations, providing accessible transport to school, making available appropriate and accessible text books, teaching and learning materials, providing assistive technologies and sign language, and implementing awareness-raising initiatives to address stigma and discrimination, in particular bullying in educational settings.

70. 委員會敦促締約國將資源從隔離環境轉移到融合環境。締約國應建立將資源和激勵誘因分配給融合教育環境的經費資助模式，以便為身心障礙者提供必要支持。要確定最適當的經費資助，最重要的是取決於現有教育環境，以及受現有環境影響的潛在身心障礙學習者的要求。

70. The Committee urges States parties to transfer resources from segregated to inclusive environments. States parties should develop a funding model that allocates resources and incentives for inclusive educational environments to provide the necessary support to persons with disabilities. The determination of the most appropriate approach to funding will be informed to a significant degree by the existing educational environment and the requirements of potential learners with disabilities who are affected by it.

71. 必須啟動對學前、小學、中學、中學後教育和職業教育階段所有教師培育過程，使他們具備在融合教育環境下工作所需的核心能力和價值觀。這過程需要修改職前訓練和在職訓練內容，力求教師在最短時間內獲得適當的技能，以推動朝向融合教育體系的轉變。提供所有教師專門的科目／主題，培養他們在融合環境下工作的能力，並提供實務體驗的學習環境，讓他們接受融合的各项挑戰，以增強他們解決問題的技能 and 信心。師資培育的核心內容必須涉及對下列事項的基本理解：人的多樣性、成長和發展、身心障礙的人權模式、以及使教師能夠發現學生的功能性能力（優勢、能力和學習方式）的融合教學方法，以確保他們可以參與融合的教育環境。師資培育應包括學習使用適當的輔助溝通模式；溝通工具和形式，如點字、大字印刷、無障礙多媒體、易讀版本、淺白語言、手語和聾人文化；以及支持身心障礙者的教育技術和教材。此外，教師還需要下列方面的實際指導和支持：提供個別化教學；根據每個人特有的學習方式和能力，採用不同的方法教學同樣的內容；發展並使用個別化教育計畫以支持特定的學習需求；採用以學生的教育目標為核心的教學方法。

71. A process of educating all teachers at preschool, primary, secondary, tertiary and

vocational education levels must be initiated to provide them with the core competencies and values necessary to work in inclusive educational environments. Such a process requires adaptations to both pre- and in-service training to achieve the appropriate skill levels in the shortest time possible, to facilitate the transition to an inclusive education system. All teachers must be provided with dedicated units/modules to prepare them to work in inclusive settings, as well as practical experiential learning settings where they can build the skills and confidence to solve problems through diverse inclusion challenges. The core content of teacher education must address a basic understanding of human diversity, growth and development, the human rights model of disability and inclusive pedagogy that enables teachers to identify students' functional abilities (strengths, abilities and learning styles) to ensure their participation in inclusive educational environments. Teacher education should include learning about the use of appropriate augmentative and alternative modes, means and formats of communication such as Braille, large print, accessible multimedia, easyread, plain language, sign language and deaf culture, educational techniques and materials to support persons with disabilities. In addition, teachers need practical guidance and support in, among others: the provision of individualized instruction; teaching the same content using varied teaching methods to respond to the learning styles and unique abilities of each person; the development and use of individual educational plans to support specific learning requirements; and the introduction of a pedagogy centred on students' educational objectives.

72. 融合教育需要為各級學校教師提供支持和資源系統。這一系統可能包括與鄰近的教育機構（如大學）建立夥伴關係，以促進合作（如：協同教學、學習小組、聯合學生評估、同儕支持和交流訪問），還可以包括與公民社會的夥伴關係。如果適當時，身心障礙學生家長和照顧者得參與制定和實施其子女的學習方案（包括個別化教育計畫）。他們可以在提供建議和協助教師提供支持

給個別學生方面扮演重要角色，但絕不能以此作為入學前提。締約國應利用一切可能的管道為教師提供支援，包括代表身心障礙者的組織、身心障礙學習者、和當地社區成員，他們可以用同儕輔導、夥伴、和解決問題的形式提供協助。他們的參與為課堂提供額外資源，並能與當地社區建立聯繫，消除阻礙，使教師更能感知和回應身心障礙學生的優勢和需求。

72. Inclusive education requires a support and resource system for teachers in educational institutions at all levels. Such a system might include partnerships between neighbouring educational institutions, including universities, promoting collaborative practices, including team teaching, study groups, joint student assessment processes, peer support and exchange visits, as well as partnerships with civil society. Parents and caregivers of students with disabilities can, where appropriate, serve as partners in the development and implementation of learning programmes, including individualized education plans. They can play a significant role in advising and supporting teachers in the provision of support to individual students, but must never be a pre-requisite for admission into the education system. States parties should utilize all possible sources of support for teachers, including organizations representing persons with disabilities, learners with disabilities and local community members who can contribute significantly in the form of peer mentoring, partnering and problem-solving. Their involvement provides an additional resource in the classroom and serves to build links with local communities, breaking down barriers and rendering teachers more responsive and sensitive to strengths and requirements of students with disabilities.

73. 各級主管部門必須有能力、決心和資源以執行支持融合教育的法律、政策和方案。締約國必須確保發展出訓練方案並提供培訓，讓所有相關主管部門瞭解法定職責，並更加理解身心障礙者的權利。實施融合教育政策和做法所必須具備的技能、知識和理解，包括：理解接受融合教育的權利的概念和目標、

知道相關國際和國內立法和政策、制定在地的融合教育計畫、協力合作和夥伴關係、對地方教育機構提供支持、輔導和監督、以及監測和評估。

73. Authorities at all levels must have the capacity, commitment and resources to implement laws, policies and programmes to support inclusive education. States parties must ensure the development and delivery of training to inform all relevant authorities of their responsibilities under the law and to increase understanding of the rights of persons with disabilities. The skills, knowledge and understanding necessary to implement inclusive education policies and practices include: understanding of the concept of the right to an inclusive education and its aims, knowledge of the relevant international and national legislation and policies, development of local inclusive education plans, collaboration and partnerships, support, guidance and supervision of local educational institutions, monitoring and evaluation.

74. 優質融合教育要求在評量和監測學生的進步時，需考慮身心障礙學生面臨的阻礙。傳統評量制度將標準化成就測驗分數作為衡量學生和學校是否成功的唯一指標，如此可能使身心障礙學生處於不利地位。應強調個人在較多元目標上的進步。所有課程都可藉由適當的教學方法、支持服務和調整措施，符合所有學生（包括身心障礙學生）的需要。經由提供個別化的支持系統，可以加強融合式的學生評量制度。

74. Quality inclusive education requires methods of appraising and monitoring students' progress that considers the barriers faced by students with disabilities. Traditional systems of assessment, which use standardized achievement test scores as the sole indicator of success for both students and schools, may disadvantage students with disabilities. The emphasis should be on individual progress towards broad goals. With appropriate teaching methodologies, support and accommodations, all curricula can be adapted to meet the needs of all students, including those with disabilities. Inclusive student assessment systems can be strengthened through a

system of individualized supports.

75. 根據第 33 條，以建立融合教育體系的情形來評量落實受教育權的進展時，締約國必須發展監測框架，包含結構、過程和結果指標，並根據永續發展目標第 4 項，制定每項指標的具體基準和目的。²²身心障礙者應當透過其代表組織參與指標的訂定以及資料收集和統計過程。「結構指標」應評估融合教育的阻礙，而不應僅限於收集損傷類型的分組資料。「過程指標」如物理環境的無障礙改造、課程調整或師資培育，將可以監測改革的進展。「結果指標」如融合學習環境中身心障礙學生取得畢業證明或文憑的比例、或身心障礙學生進入中學的比例也需建立。締約國還應考慮根據聯合國教科文組織建議的五個面向（尊重權利、公平、相關性、適當性以及效率和效能）去衡量教育品質。還可以考慮監測積極平權措施（affirmative action measures，或稱優惠性差別待遇），如配額或激勵誘因。

75. In compliance with article 33, and to measure progress on the realization of the right to education through the establishment of an inclusive education system, States parties must develop monitoring frameworks with structural, process and outcome indicators, and specific benchmarks and targets for each indicator, consistent with Sustainable Development Goal 4.²² Persons with disabilities, through their representative organizations, should be involved in both the determination of the indicators and in the collection of data and statistics. Structural indicators should measure barriers to inclusive education and not be limited merely to collecting data disaggregated by impairment. Process indicators, such as on changes to the accessibility of physical environments, curriculum adaptations or teacher training,

²² 聯合國人權事務高級專員辦事處，《人權指標：衡量和執行指南》（紐約和日內瓦，2012 年）。

Office of the United Nations High Commissioner for Human Rights, Human Rights Indicators: A Guide to Measurement and Implementation (New York and Geneva, 2012).

will make it possible to monitor the progress of the transformation. Outcome indicators such as the percentage of students with disabilities in inclusive learning environments obtaining final official certification or diplomas or the percentage of students with disabilities admitted to secondary education, must also be established. States parties should also consider measuring the quality of education through, for example, the five dimensions recommended by UNESCO: respect for rights, equity, relevance, pertinence, efficiency and efficacy. Monitoring affirmative action measures such as quotas or incentives may also be considered.

76. 委員會注意到許多國家的私部門教育的發展。締約國必須認識到融合教育涵蓋所有的教育，而不僅是公權力所提供者。締約國必須採取措施防止權利遭到第三方的侵犯，包括商業部門。就受教權而言，這類措施必須提及保證提供融合教育的義務，如有必要，包括立法與規定、監測、監督、執行，以及制定政策，規範企業對於身心障礙者有效享有和行使權利的影響。教育機構不應就無障礙設施和／或合理調整收取額外費用，包括私立教育機構和企業都是如此。

76. The Committee notes the growth in many countries of private-sector education. States parties must recognize that the right to inclusive education extends to the provision of all education, not merely that provided by public authorities. States parties must adopt measures that protect against infringements of rights by third parties, including the business sector. Regarding the right to education, such measures must address the obligation to guarantee the provision of inclusive education and involve, as necessary, legislation and regulation, monitoring, oversight, enforcement and the adoption of policies to frame how business enterprises can have an impact on the effective enjoyment and exercise of rights by persons with disabilities. Educational institutions, including private educational institutions and enterprises, should not charge additional fees for integrating accessibility and/or reasonable accommodation.

