Children with Disability AUSTRALIA

A bigger voice for kids

Australian Education Bill 2012

Submission

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BACKGROUND

Children with Disability Australia

Children with Disability Australia (CDA) is the national peak body that represents children and young people with disability and their families. The organisation is primarily funded through the Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) and is a not for profit organisation. Additional funding is also received by the Department of Education, Employment and Workplace Relations (DEEWR). CDA has a national membership of 5000 with the majority being families.

CDA's vision is that children and young people with disability living in Australia are afforded every opportunity to thrive, achieve their potential and that their rights and interests as individuals, members of a family and their community are met.

CDA has the mandate to advocate for children and young people with disability living in Australia and undertakes the following to achieve its purpose:

1. ***Education*** of national public policy-makers and the broader community about the needs of children and young people with disability.
2. ***Advocacy*** on behalf of children and young people with disability to ensure the best possible support and services are available from government and the community.
3. ***Inform*** children and young people with disability, families and care givers about their rights and entitlements to services and support.
4. ***Celebrate*** the successes and achievements of children and young people with disability.

This submission should be read in conjunction with the CDA submission to the Senate Education, Employment and Workplace Relations References Committee Senate Inquiry into Teaching and Learning — Maximising our investment in Australia's schools[1]. While that submission is more general in nature and there is some overlap with this submission, much of the background it provides is highly relevant to the issues for students with disability and the Australian Education Bill.

INTRODUCTION

Education is critically important for children and young people with disability, and CDA has strongly advocated for the need for systemic reform. Our current educational systems are simply failing to deliver the outcomes or the positive educational experiences that are required for all students.

Every child with disability should be provided with an education where they have the opportunity to realise their full potential and to be greatly enriched and extended through the process.

At Children with Disability Australia, we hear daily of the shameful education experiences of students with disability. It is common for students with disability to only be *''allowed''* to attend school part time. Students and their families are told, *''No school would tolerate your child,''* or *''Why do you want your child to learn how to read?''* There are worse examples and sadly discrimination and exclusion is a regular part of the educational experience for most students with disability.

Children with disability are typically positioned as a cost and challenge to a school community. The area of disability is arguably the most complex and difficult part of the present education reform process. The Australian Education Bill clearly recognises disability as an area of disadvantage.

[1] Children with Disability Australia: Submission to Senate Education, Employment and Workplace Relations References Committee Inquiry into Teaching and Learning – Maximising our investment in Australian Schools, Submission 23, October 2012 found at http://www.aph.gov.au/Parliamentary_Business/Committees/Senate_Committees?url=eet_ctte/teaching_learning/submissions.htm

CDA commends the government for highlighting disability in the funding framework through an intention to have specifically targeted funding to address this disadvantage in the Bill.

The Bill provides a vital opportunity to articulate the attitude and cultural change which is critical to ensuring the recognition of educational rights of students with disability. It also provides a formal means to move to a society in which students with disability are valued members of a school community rather than just an additional cost or modification. Inclusive education practice must be a core expectation of all schools. CDA believes that the articulation of this requirement in legislation, and the National Plan for School Improvement, is a fundamental step in shifting the systemic culture of low expectations which has shaped the educational experience of students with disability for far too long.

The Disparity for Students with Disability

On every measure students with disability are performing more poorly than their peers without disability in Australian schools:

- 63 per cent of school children with disability experienced difficulty fitting in at school[2]
- 29.6 per cent of people aged 15 to 64 years with reported disability had completed Year 12 compared to 49.3 per cent of people without a disability[3]
- 12.7 per cent of people with disability had completed a bachelor degree or higher compared to 19.7 per cent of people without disability.[4]

Central to this is the prevailing culture of low expectations of students with disability. It is an imperative of the Australian Education Bill 2012 and the National Plan for School Improvement to set a clear pathway to raising the bar across the board. Reform needs to occur in funding design, accountability, teacher and school leader competencies and the overall capacity for schools to be fully inclusive.

Historically disability has been a 'bolt-on' component of the education system, with support funding being provided to students meeting strict deficit-based diagnostic eligibility criteria only in state schools. Disability support programs are designed to supplement the normal operations and practices of schools, not to improve them. Despite there being growth in these funding programs over recent years, they have not delivered improved outcomes and or value for money.

A student-by-student approach has been taken rather than a systemic approach, and so the capacity of schools to routinely deliver effective programs for students with disability has not increased. Across the country, the ability of schools to deliver inclusive education is very patchy, and driven largely by attitudes and experience of school leaders.

In order to deliver on the Bill's objectives of equity and excellence, the reforms have to build in the expectation that quality inclusive education is a standard offering in all schools and all education systems. The new funding model will be required to provide not only for funding support to individual students, but to fund systemic capacity, and detailing accountability for processes and outcomes.

[2] 1 AIHW, Disability Updates: Children with Disabilities, Canberra June 2006
[3] ABS Survey of Disability, Ageing and Carers 2009: Summary of Findings
[4] Taken from Developing a National Disability Strategy for Australia, FAHCSIA, Canberra 2008

COMMENTS ON THE BILL

CDA understands the purpose of this Bill is to frame the principles and objectives for the ongoing negotiations with the states and territories, and does not attempt to define the funding and accountability arrangements completely.

Section 3 sets out the objects and goals of the Bill, namely excellence, equity and relative high performance in reading, mathematics and science.

In the consideration of the Bill moving through the legislative process, it is important that there is better definition of key terms, particularly for equity and excellence. A dedicated focus on equity must result in more than mere participation in education, and excellence needs to be defined as being about more than the achievement of high academic scores. The description in Section 7(2) of quality learning provides a pointer to a practical definition of *"excellence"* being about providing opportunities for *"all school students to reach their full potential"*.

It is critical that the goals in Section 3 are not mutually exclusive and that improved equity is part of how excellence is defined and delivered for all students in all schools. This means more than just the allocation of individual resources. It involves skilled teaching and assessment, tailoring work to challenge students and a commitment to the achievement of outcomes.[5]

Part 2 addresses the development of the National Plan for School Improvement that is to be done with the states and territories. CDA believes that the some of the reform directions in Section 7 need to be better expressed to emphasise the links to the main goals. Particular recommendations are:

7(1) *Quality teaching* — the skills and resources teachers need are not simply limited to standard teaching methodologies. It is essential that teacher training and ongoing professional development enables the needs of students with disability to be accurately identified and met. Teachers must therefore have access to professional support and mentoring, specialist professional consultancy and be highly skilled in parent liaison.

7(3) *Empowered school leadership* — greater autonomy in local decision making must not be unfettered – this reform area must include requirements to develop positive and inclusive school cultures which reflect the key goals in the Bill, and also incorporate instruments such as the Disability Standards for Education 2005.

7(4) *Transparency and accountability* — in the move to achieve greater equity and excellence in provision, the accountability provisions need to capture more than the performance of students. Education systems and all schools also need to be accountable for ensuring the development of equal opportunities and an inclusive culture.

7(6) *Meeting student need* — To achieve in this reform direction, schools will need a fundamental capacity to identify and plan for individual student need, as well as to deliver high quality education. This reform direction needs to better describe the elements required to identify and meet student needs at the system, school and student levels. One such element here is the identification and use of good practice in inclusive education. Another is the development of pathways for students from early intervention programs into school, the transition from primary to secondary school, and from school to further education or vocational options.

[5] Office for Standards in Education, Children's Services and Skills, Inclusion 2006: Does it Matter Where Pupils are Taught? Provision and outcomes in different settings for pupils with learning difficulties and disabilities. www.ofsted.gov.uk Document ref HMI 2535, Manchester

The Funding Model for Students with Disability

Section 9 of the Bill details the intention of the Commonwealth to fund education authorities.

If the reforms are going to lead to improved outcomes, there must be a strengthening of funding obligations of all schools to educate all students. This should include the capacity to plan and design individual education plans for students with disability, and identify the additional resources that are required to deliver them. This would be a deliberate move away from the practice where the individual funding allocation is allocated on the basis of diagnostic criteria rather than educational need.

CDA recognises the two part funding model that was recommended by the Review of Funding for Schooling, comprising the School Resource Standard and an additional loading for students with an identified disadvantage. A particularly positive feature of this recommended funding approach is that it is applicable to all education systems.

However CDA remains concerned that the expectation for schools to deliver inclusive practice is not explicit in the School Resource Standard. While all schools are required to meet the requirements of the Disability Standards for Education, these alone have not provided the impetus for good practice in schools. CDA believes that without explicit requirements and proper resourcing to meet the Standards as a minimum, there is a real risk of entrenching the 'bolt-on' culture of education for students with disability.

In the 2012 review of the Disability Standards for Education (DSE), it was noted that a common theme in consultations and submissions from all sectors was the resourcing for meeting the standards. One provider submission said:

Without consistent and appropriate funding mechanisms, support for students with special needs in terms of enrolment, participation, curriculum development, student support services and the elimination of harassment and victimisation, will always be difficult to achieve, regardless of the quality and clarity of Disability Standards and Guidance Notes.[6]

To achieve the level and type of provision required by the standards, and indeed those required by students and parents, consistent and sufficient funding must be part of the core amount provided to schools. Capacity to do this must be built into the funding model. This must be considered in the current negotiations to ensure that this core funding enables all schools to meet the DSE requirements. Much of what is required to do this must be part of every school's routine practice, not bolted on with a loading in the event of a student with disability enrolling at a particular school.

Currently many children with genuine needs for funded educational support cannot access it due to strict diagnostic criteria governing access to funding. The educational need does not diminish because the student is not eligible for funding, it just places an unreasonable impost on teachers, schools, parents and the student. The new approach must address these artificial divisions.

There are a number of systemic elements that must be incorporated into the funding model to ensure school and system capacity for excellent and equitable provision for students with disability. Many of these are being addressed by the More Support for Students with Disabilities National Partnerships (MSSD), and include:

- Improved access to assistive technology (including training)
- Developing support centres which provide expert support to a group of schools
- Pre and in-service teacher training
- Training for school staff in curriculum adaption
- Support for school leaders
- Paraprofessional training for teacher aides[7]

[6] Department of Education, Employment and Workplace Relations: Review of the Disability Standards for Education, Canberra, June 2012, p49

[7] For detail about the MSSD Partnerships see: http://deewr.gov.au/more-support-students-disabilities

The MSSD Partnerships are working to expand awareness and capacity of schools and education systems to improve their practice and provision for students with disability. These partnerships expire at the end of the 2013 calendar year, however the gaps they that they are addressing are ones that need attention over the long term.

There are two key questions confronting the government around the MSSD. The first is how to ensure continuity and funding for this capacity building work between when the MSSD partnerships finish in 2013 and when the new funding model is fully implemented (with the agreed loading for students with disability).

The second is perhaps a more fundamental funding design question of how these systemic capacities become built into the funding model for the long term. Areas like teacher and paraprofessional training, leadership development and resourcing for curriculum modification for students with disability are central to the achievement of the equity and excellence goals over the long term and cannot be seen as short term projects.

CDA strongly recommends that the MSSD partnerships are extended to cover the implementation gap between 2014 and 2015, and that specific work is done by all governments to work how these activities will be costed and located in the final funding model. As such, a detailed transition plan will need to be developed to detail the implementation of the new funding approach across all systems.

OTHER RELEVANT ISSUES

Disability Standards for Education 2005

As mentioned above, the DSE are the current default position for schools working with students with disability. While they are extremely important, they need to be seen for what they are — a marker of actionable discrimination. The DSE are not a guide as to how to provide quality inclusive education.

The Victorian Human Rights and Equal Opportunity Commission highlight these failings in a 2012 report — *Held Back: Experiences of Students with Disabilities in Victoria* details serious failings in education practice and accountability, in a system where the DSE are applicable. The key findings from the report include:

- Half of the students and parents in (the) survey reported discrimination at school. One in four educators had witnessed discrimination. Barriers include funding limitations, lack of specialist supports, inadequate knowledge and training in disability among teachers, lack of time for teachers to provide an individualised approach for students with disabilities, and discriminatory attitudes.
- Bullying is a significant and widespread problem for students with disability, with six out of 10 reporting they have been bullied because of their disability. This is much higher than the rate of bullying for the general student population where bullying is estimated to occur to around one in four students.
- Even though the law requires all students who are enrolled to attend school full-time, some schools do not allow students with disability to come to school full-time. In some cases, students are only allowed to attend during the hours that a funded integration aide is available. In other cases, the student may be put on part-time attendance following behaviour problems that have not been well managed.[8]

As such the Bill and the National Plan for School Improvement need to contain clear expectations and aspirations about education for students with disability that become the reference point for

[8] Victorian Equal Opportunity and Human Rights Commission: Held Back: The Experience of Students with Disabilities in Victorian Schools. Melbourne 2012 Main Findings Fact Sheet p1

reform. While the DSE are an essential part of the overall framework, they are not a substitute for the Bill being explicit about its reform intention for students with disability.

Awareness of and compliance with the DSE is currently the subject of separate work identified by the Government response to the Review of the Standards.[9]

Intersections with the NDIS

The National Disability Insurance Scheme (NDIS) is a major companion reform that the National Plan for School Improvement needs to recognise and incorporate in its implementation. In its report into Disability Care and Support, the Productivity Commission recognised that the current disconnection between education and service systems was an issue needing to be addressed:

…partnerships are essential for achieving positive outcomes for students with a disability. These include partnerships between families, communities and schools that are effective in identifying and responding to the needs of individual students as well as inter-agency approaches through collaborative planning and delivery of services.[10]

While there is great expectation on the NDIS to deliver a range of social and service related outcomes, responsibility for education outcomes and the kind of collaboration named by the Productivity Commission rests with education systems, and expectations for schools to look outward as well as inward must be built in to the funding regime.

Not every student with a learning or other disability will be eligible for an individual support plan under the NDIS, however they may still need a range of adaptations and supports provided through the education system. Schools will need to have their own educational planning process for students that can both contribute to NDIS activity for particular students, or work with other programs (such as health or justice) as the need requires.

Nationally Consistent Collection of Data on School Students with Disability

In order to design and calculate the loading for students with disability, the Standing Council on School Education and Early Childhood is implementing a nationally consistent collection of data on school students with disability. This collection encompasses all education systems and collects data on the types of adjustments being made for school students with disability.

The school funding review was not able to design loading for students with disability. A major reason for this was the lack of data about what funding was already being used for and the wide variation the ways disability was defined and funded in state and territory systems. This led to the main recommendation in this area being that Governments urgently work on data collection and design work for the disability funding loading.

Because the Review was not able to calculate the loading for students with disability, its construction is lagging behind other work on the funding model, which is of great concern to CDA and others in both the education and disability sectors. The data to be collected is on the types of adjustment needed for students with disability in schools rather than by diagnosis, which signals a welcome shift away from the arbitrary and unfair diagnosis-based criteria used in the state systems for allocating support funding. Two separate trials have been conducted for this data collection in 2011 and 2012, with the full rollout over 3 years commencing in late 2013.

CDA is of the view that because the data collection is limited only to the types of adjustments being made for students, it will miss critical information about whole-school adjustments that is necessary to inform the design of the funding model.

[9] See the Government response to the Review of the Disability Standards for Education 2005, http://deewr.gov.au/disability-standards-education

[10] Productivity Commission, Disability Care and Support Inquiry Report, Canberra 2011, p248

Further, we think the data collection project needs to be supplemented by separate analysis of the type and quality of the actual education provision (including costing) underlying the adjustments that will be reported for students with disability — something we believe is central to the rigorous design of the funding model overall.

One particular area that has been identified as needing substantial work is designing a funding and accountability model for specialist schools. The Review of Funding for Schooling recommended full public funding of non-government specialist schools, but was silent on how this amount would be calculated, and how these schools related to the rest of the education systems. CDA believes this work is urgently required for both the timetable for the implementation of the funding model, but also to provide clearer information to educators and parents about funding and educational expectations of specialist schools.

Given that many of the elements of excellent inclusion practice are in the realm of school leadership, culture, governance and partnership capacity, only having data on what is currently being done student-by-student is going to give a skewed picture of the resourcing that will be required and where it needs to be directed.

CONCLUSION

Every child deserves to get a high quality education and at the moment that is not happening. A country as rich as ours must allow every child to reach their potential. The support for social reform to improve opportunities for people with disability is highly visible through the NDIS and the National Disability Strategy. The Australian Education Bill is an important companion piece of legislation which articulates how as nation we value quality education and believe every child, regardless of circumstances, should have access to equal education opportunities. A clear focus of the reform has been students with disability.

CDA recognises that substantial work needs to be done in and around the construction of the loading for students with disability. However, we remain concerned that the timetable for the design and implementation of the loading may itself be a barrier to ensuring the reform delivers across the board in this area. The key risk in this is that the outcome could be another bolt-on funding approach to education for students with disability that does not result in the fundamental shift that is intended by the proposed Bill.

The Australian Government is to be commended for its commitment to improving educational opportunities and outcomes for students with disability. It is imperative that the Commonwealth, State and Territory Governments continue to negotiate to ensure a funding model is delivered which will allow the educational vision articulated in the Australian Education Bill to be fully realised.