

Senate Education and Employment Legislation Committee

AUSTRALIAN EDUCATION AMENDMENT BILL 2017

**Children and Young People with Disability Australia
Submission – May 2017**

Children and Young People with Disability Australia (CYDA) welcomes the opportunity to provide a brief response to the Senate Education and Employment Legislation Committee regarding the Australian Education Amendment Bill 2017.

CYDA is the national representative organisation for children and young people with disability, aged 0 to 25 years. The organisation is primarily funded through the Australian Government Department of Social Services and is a not for profit organisation. CYDA has a national membership of 5300.

CYDA provides a link between the direct experiences of children and young people with disability to federal government and other key stakeholders. This link is essential for the creation of a true understanding of the experiences and challenges faced by children and young people with disability.

The Direct Experiences of Students with Disability

The profound disadvantage confronting children and young people with disability in education has been highlighted in numerous national, state and territory inquiries. The final report of the Senate Inquiry in 2015 into *Current levels of access and attainment for students with disability in the school system, and the impact on students and families associated with inadequate levels of support*, stated that:

Throughout the course of this inquiry, the committee received overwhelming evidence regarding the many barriers faced by students with disability and their families. Access to education is a basic human right, but for many students with disability in Australia, it is a right which they are prevented from accessing.¹

The depth and breadth of poor education experiences reported to CYDA is immense. It is critical to recognise that the difficulty in obtaining adequate funding to support students with disability plays a major role in these poor experiences. Further, within the present education system is a systemic culture of low expectations in relation to students with disability, with it being common for students with disability to not be afforded the status of a learner.

Students with disability frequently experience discrimination, including denial of enrolment, imposed part time attendance and exclusion. Further, schools often lack the required expertise in developing educational programs for students with disability. Limited monitoring and accountability for the learning outcomes of students with disability is also a significant issue. Finally, experiences of bullying and abuse, including restraint and seclusion, are now shamefully common for students with disability in education settings. It is the experience of CYDA that it is rare for students with disability to be provided with a truly inclusive education experience.

Available statistics regarding educational attainment and post school outcomes reflect the poor education experiences of students with disability.

- 7.7% of all children and young people aged 0–24 years in Australia have an identified disability;²

¹ Senate Standing Committees on Education and Employment 2016, *Access to Real Learning: the Impact of Policy, Funding and Culture on Students with Disability*, Commonwealth of Australia, Canberra, p3.

² Australian Bureau of Statistics 2016, 'Table 1.1 Persons with Disability, by Age and Sex—2003, 2009, 2012 and 2015, Estimate,' *Disability, Ageing and Carers, Australia: First Results, 2015*, Commonwealth of Australia, Canberra.

- Children aged 0–12 years with disability have a lower representation in childcare services (3%) than their representation in the community (6.7%);³
- 30% of people with disability do not go beyond Year 10, compared to 20% of people without disability;⁴
- 36% of people aged 15–64 years with disability had completed year 12 compared to 60% of people without disability;⁵
- 15% of people aged 15–64 with disability had completed a bachelor degree or higher compared to 26% of people without disability;⁶
- 38% of young people aged 15–24 years with disability either work, study, or do a combination of both on a full time basis compared to 56% of young people without disability;⁷
- 42% of young people with disability neither work nor study (there is no comparative data available for young people without disability);⁸
- 20% of young people with disability either work or study on a part time basis (there is no comparative data available for young people without disability);⁹
- The labour force participation rate for people with disability is 53.4% compared with 83.2% for people without disability;¹⁰ and
- 45% of people with disability in Australia live in or near poverty.¹¹

Below are examples of the direct education experiences frequently reported to CYDA:

At the special school I attend, I'm treated like an idiot, like I can't do what other kids can do. Their expectations of me are very low. They don't treat me like an individual – Student, 15 years.

(At school) they would get us to watch DVD's for sport and other lessons, which were for little kids not a 16 year old. At lunch and recess every day I was in the library on computers. I want to be treated like other students – Student, 16 years.

We have tried removing (my son) from the special school as he is very unhappy but none of our local primary schools will accept him - Parent

Staff are ill equipped to provide the right support and are knocking back training and new strategies to help my son. As a result he accesses less than 10% of the curriculum, the school has become a babysitting service. My son is missing out and falling further behind – Parent.

³ Productivity Commission 2015, *Report on Government Services*, Commonwealth of Australia, Canberra, p. 3.24.

⁴ Australian Bureau of Statistics 2013, 'Table 7 PERSONS AGED 15 YEARS AND OVER, LIVING IN HOUSEHOLDS, Disability status, by selected social characteristics–2012,' *Disability, Ageing and Carers, Australia: Summary of Findings, 2012*, Commonwealth of Australia, Canberra.

⁵ Ibid.

⁶ Australian Bureau of Statistics 2012, 'Disability - Education and Employment,' *Disability, Ageing and Carers, Australia: Summary of Findings*, Commonwealth of Australia, Canberra.

⁷ Australian Bureau of Statistics 2012, *Australian Social Trends*, Commonwealth of Australia, Canberra.

⁸ Ibid.

⁹ Ibid.

¹⁰ Australian Bureau of Statistics 2016, 'Key Findings,' *Disability, Ageing and Carers, Australia: First Results, 2015*, Commonwealth of Australia, Canberra.

¹¹ PricewaterhouseCoopers 2012, *Disability Expectations: Investing in a Better Life, a Stronger Australia*, Australia.

My child was excluded from the drama group, the choir, sport, and a talent quest just in case he embarrassed the school – Parent.

The bullying has been disgusting - physical and mental. The Principal stated that the 'zero tolerance' policy for bullying was only for 'normal kids' and that 'weird kids' had to expect to be bullied. My son has experienced bullying from the minute he began school and he has missed a lot of school because of it – Parent.

Our son has been restrained in a chair that is bolted to a large piece of timber continuously throughout his day. He is only removed when taken to the toilet, where once again he is strapped to the toilet, or for outside play. While he is in class he is restrained at all times – Parent.

The Australian Education Amendment Bill 2017

CYDA is concerned that the proposed Amendment Bill has a limited focus on students with disability. Information available to date is scant in detail, both in the Bill itself and through other sources. It provides little certainty to students with disability about what reform will occur in the future, and there is no clear vision or plan articulated to address the prolonged and profound educational disadvantage which students with disability contend with.

The area of disability has proven to be one of the most difficult parts of education reform to deliver. *The Review of Funding for Schooling*¹² was not able to design the loading for students with disability. A major reason for this was the lack of data about what funding was already being used and the wide variation in the way 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.

Use of the NCCD to Inform the Student with Disability Loading

The Australian Education Act 2013 thus has only temporary arrangements for the funding of students with disability, while other areas of disadvantage had loadings articulated in the Act. In order to design and calculate the loading for students with disability the Australian Education Council implemented the National Consistent Collection of Data on School Students with Disability (NCCD). Two separate trials were conducted for the data collection in 2011 and 2012. The full rollout of the NCCD commenced in 2013 and was rolled out over a three year period. The expectation initially was that the loading for students with disability would be finalised during 2014 and implemented in 2015. The NCCD was not publicly released until the end of 2016 because of stated concerns regarding the reliability of the collected data. The funding formula however has remained unchanged to date.

CYDA appreciates the relative complexity of the work to develop the loading, but is deeply concerned that previously disability was the residual part of the reform, and the way forward still is clouded with considerable uncertainty for students with disability.

The Explanatory Memorandum to the Bill articulates that the existing 'student with disability' loading will be modified to leverage the NCCD. The Bill will be amended to allow for funding to be provided at different rates based on students' 'required level of adjustment'. The level of adjustment changing to accord with the *supplementary, substantive and extensive* categories used in the NCCD.

¹² Australian Government 2011, *Review of Funding for Schooling-Final Report*, Canberra

CYDA originally welcomed the establishment of the NCCD but has been consistent in its view that its design was flawed and required refinement. This has since been echoed by other stakeholders. For example, the latest NCCD data released reports that 18.1% of students with disability received an adjustment to participate in education because of disability¹³. The present reported level of adjustments provision does not align with the overwhelming direct experiences of unmet need consistently reported to CYDA.

CYDA does not believe the NCCD data is reliable enough to be the sole underpinning data framework to funding of students with disability. Work needs to be done by the Education Council to redesign the data collection methodology for NCCD. In the context of this Bill, we recommend that there be a review date of the disability loading inserted into the Bill to enable a sunset of the current NCCD data set.

An important issue that needs to be address regarding the NCCD is that it requires teachers with limited or no training and experience in inclusive education to make sophisticated judgements about the level of adjustments required and provided. It is noted that the recent review completed by PricewaterhouseCoopers titled *2016 NCCD Continuous Quality Improvement Process*¹⁴ involved no consultation with other stakeholders about the NCCD, namely students with disability or families of children with disability. The report appeared to focus on the reliability of the data collection but at no stage are we evaluating the value or appropriateness of adjustments.

It is common for there to be disagreement between schools and families and/or other allied health professionals on the level and type of adjustment required for individual students. Another frequent scenario is that schools are reported to not accurately identify or understand that a child has a disability or learning difference. Presently there is limited capacity for families or allied health professionals with extensive knowledge of the student to directly input into the NCCD process. It is unclear how these areas of disputation are considered when judgements are made regarding adjustment levels.

Another fundamental issue is that the NCCD quantifies individual levels of adjustment and associated costs. However, there is a lack of information regarding how systemic adjustment will be incorporated in the reform, for example to promote a culture of inclusive education and develop necessary practices and competencies of staff and school governors. Further, CYDA is not aware of what qualitative improvements will occur through the establishment and implementation of the loading and how it is envisaged it will improve outcomes for students with disability. There is presently no information available regarding how systemic adjustments will be measured or resourced

Other Considerations

It is stated that on average, funding for students with disability will grow by 5.9 per cent each year in the available *Fairer Funding for Students with Disability Fact Sheet*¹⁵ released by the Commonwealth Department of Education and Training. CYDA has requested further information to ascertain if this amount is inclusive or separate to increases which usually occur each year with indexation and additionality. This information has not been provided to date. Currently CYDA is unclear whether

¹³ Education Council 2016, *2016 emergent data on students in Australian schools receiving adjustment for disability*, p3.

¹⁴ PricewaterhouseCoopers 2017, *2016 NCCD Continuous Quality Improvement Project*, Australia.

¹⁵ Australian Government Department of Education and Training 2017, *Fairer Funding for Students with Disability Fact Sheet*, viewed 28 May 2017, <https://docs.education.gov.au/documents/fairer-funding-students-disabilityj>

the new funding formula will mean a redistribution of existing levels of funding or if it will involve an increase in funding above the standardized increases which usually occur annually.

The Amendment Bill reflects the clear agreement of the use of the NCCD as the basis for the loading but it does not articulate what specific expectations there are regarding the use of this refined loading or what outcomes it will achieve in education systems. CYDA is concerned that there is no clear program for the much needed reform for students with disability apart from a 'modified' loading. The breath of barriers facing students with disability and their educators has been well articulated in the numerous inquiries on education and disability. Adequate funding is a critical enabler of the change needed but the broader reform pathway, expectations and outcomes must be defined.

The Amendment Bill removes some of the present accountability mechanisms including implementation plans and school improvement frameworks allowing "approved authorities and schools to continue to manage their improvement processes at the local level, and reduce unnecessary red tape." CYDA has had ongoing concerns regarding accountability for learning, outcomes and current funding regarding students with disability in the proposed reform. This is seen as an essential consideration which should be articulated as a condition of funding.

CYDA does not classify setting expectations for learning outcomes for all students as red tape: this suggests that such an expectation is an administrative burden, which it is clearly not. Removing these requirements reduces the opportunities to collect meaningful data across systems. Given the unreliability of the data from the NCCD, a national oversight over improvement in education of students with disability is an important part of the governance of this part of the reform.

One of the main aims of the Bill as described in the Explanatory Memorandum is to link Commonwealth funding to evidence based reforms to lift student outcomes. This applies equally to students with disability as all other students. Engaging Articles 9 and 24 of the Convention on the Rights of Persons with Disabilities is not a substitute for this aim, but is a precondition. Being subject to a separate loading in the funding model does not mean that education for students with disability is delivered only in the context of the disability loading. The Bill needs to be strengthened to specify how this link is to be made, measured and enforced for all students. CYDA remains concerned that specific funding for support of students with disability delivered through existing frameworks is not always directly linked to education outcomes. The high utilisation of individual support provision through a classroom aid being a case in point.

The Bill states in Section 17 that regulations will be drafted to define the calculation of funding levels and the classification of students with disability based on the NCCD. We strongly believe that these should include a set of expectations about how the aim of the Bill of linking evidence based reform to lifting student outcomes will be delivered to students with disability.

CYDA is aware of substantial evidence as to the value and implementation imperatives for inclusive education, and this has been presented to this committee in previous inquiries. CYDA applauds this aim of the Bill but believes that the current Bill needs to articulate fully how the link between evidence, practice and outcomes needs to be demonstrated as a condition of funding.

CYDA also notes that there is high representation of students with disability in distance education and home schooling. Consideration needs to be given as to how these students will be adequately funded to be able to access a quality education and how the newly articulated loading will apply to the students concerned.

Education is a key determinant of future life outcomes and opportunities. The Government must make a commitment to fully fund national education reforms and students and families need to be clear how this is going to make a difference to their lives. It is unclear from the Australian Education Amendment Bill 2017 what the educational future is for students with disability. Children and young people with disability have a right to a quality education and without appropriate and targeted reform students with disability will continue to slip through the cracks.

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