



Review of Disability Standards for Education 2005

**Submission
May 2011**

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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, Communities and Indigenous Affairs (FaHCSIA) and is a not for profit, community based organisation.

The organisation represents children and young people aged 0–25 as an advocacy body with the mandate of building respect, recognition and inclusion for ‘kids’ with disability. CDA works alongside families of children and young people with disability and has a membership of approximately 5000 members nationally.

Vision

To provide children with disability the opportunity to live meaningful and fulfilling lives within safe, supportive and appropriate environments. CDA achieves this vision by:

1. **Educating** national public policy-makers and the broader community about the needs of children and young people with disability and their families.
2. **Advocating** on behalf of children and young people with disability to ensure individual choices and the best possible support and services are available to them from government and the community.
3. **Informing** families about the rights and entitlements of the child and young person with disability to services and support.
4. **Celebrating** the successes and achievements of children and young people with disability.

CDA acknowledges the critical role that families play in providing the necessary care and support to children and young people with disability and recognises their need to be supported in this role.

Guiding principles

Children the priority: that the safety and well-being of children and young people with disability is paramount and consistent with Australia’s obligations under the Convention on the Rights of the Child and the Convention on the Rights of Persons with Disabilities.

Respect: for the views and interests of children and young people with disability and their families.

Recognition: for contributions made by families to ensure the safety and well being of children and young people with disability.

Inclusion: to ensure that children and young people with all types of disability, from all cultural and religious backgrounds and different family structures are supported by the work of CDA.

Responsiveness: to ensure that full advantage is taken of strategic opportunities that arise from the political and social policy environment that benefit children and young people with disability.

Collaboration: with relevant non-government, government and private sector partners to promote the interests of children and young people with disability.

Transparency: within CDA's governance structures, decision-making processes, financial expenditure and reporting activities.

Introduction

The present education system is not adequately meeting the needs of many students with disability. CDA is of the view that the disability standards for education have not met their stated objectives.

The Senate Inquiry (2002) by the Employment, Workplace Relations and Education Reference Committee into ‘education of students with disabilities’ reported that *“quality education for students with disabilities is a scarce commodity in schools generally. A picture has emerged of students affected by disabilities taught in many cases by teachers unskilled or lacking confidence in their ability to involve them in the full curriculum, resulting in these students performing at less than their full capability and being regarded as marginal participants in the activities in the school community. Evidence also indicates that there is a considerable level of unmet need, especially in the area of learning disability. It was also reported that children and parents are not being given the support that they need in the education system.....This is a human rights issue of considerable significance.”*

The Committee recommended (Recommendation 17) that the “Attorney-General formulate the Disability Standards for Education 2002, under paragraph 31 (1) (b) of the *Disability Discrimination Act 1992*.”

The objects of the Disability Standards for Education 2005 are:

- a. to eliminate, as far as possible, the discrimination against persons on the ground of disability in the area of education and training; and
- b. to ensure, as far as practicable, that persons with disabilities have the same rights to equality before the law in the area of education and training as the rest of the community; and
- c. to promote recognition and acceptance within the community of the principle that persons with disabilities have the same fundamental rights as the rest of the community.

CDA believes the observations made by the Senate Inquiry in 2002 remain an accurate description of the educational experience of many students with disability and their families in Australia today. Despite the implementation of the Disability Standards and their intent, as clearly stipulated in the above objectives, education continues to be an extremely significant area of concern for students with disability and their families. Many families report that, through their education experiences, their children are subjected to: limited opportunities; low expectations; exclusion; bullying; discrimination; assault and violation of human rights.

Increasingly families of children with disability are successfully pursuing legal action against state education departments to have the educational needs of their children recognised and met. In some instances families are taking their cases to the Australian Human Right’s Commission to pursue legal action for breaches of human rights against their children.

Many education providers are also genuinely concerned that they are unable to meet the needs of children with disability due to the lack of funding, inadequately trained teachers and limited support provided by education authorities. It is of great concern to CDA that state and territory governments continue to settle legal cases without addressing the systemic issues they raise.

Feedback provided throughout this submission is based on the experiences of members that has been reported to the organisation over several years. Education has been one of the most dominant issues of concern for members since the inception of our organisation in 1992 (CDA was formally called the Australian Association of Families of Children with a Disability — AAFCD).

Recently CDA requested families share their educational experiences as part of a separate report it is preparing regarding education. The contributions received reflect appalling experiences of discrimination, inadequate and inflexible funding and a system that is failing to recognise the educational rights of far too many children and young people with disability. The quotes below aptly reflect an inadequate education system for children with disability.

“Every promise of support and modification has yet to be delivered.”

“My son was never given the opportunity to reach his full potential.”

“My child is clearly not quite as entitled to education as the kid next door.”

“Sometimes the hardest thing about disability is expecting support but ending up with yet another time consuming fight.”

“I don’t have anything good to say about our son’s education except it gave the family “free child care.”

CDA welcomes the opportunity to provide feedback to the Review of Disability Standards 2005.

Question 1 — Providing clarity

a) Are the Standards easy to understand or are there parts that require clarification?

CDA believes the purpose of the Standards being ‘to ensure that students with disability should be able to access and participate in education on the same basis as other students’ is clear. The ‘parts’ contained within the Standards cover the breadth of considerations relevant to students with disability and their right to access education on the same basis as other students.

b) Is the format of the Standards useful for understanding rights and requirements under each of the Standards?

The format used whereby the part, obligations and measures are articulated for each standard is viewed as adequate. It allows the reader to obtain an adequate understanding of their rights and requirements and the application of these to educational experiences.

c) Are the terms used in the Standards clear to users and providers?

It is believed that it is necessary to provide clarification and definitions for terms used within the Standards which can at present be broadly interpreted. In particular this is relevant to the use of the words ‘consult’ and ‘participate’.

There are different perceptions of the word consult. It is the experience of CDA that consultation often does not occur or can be construed very broadly. For example, a short phone call informing a family of a significant change to their child’s education program has been seen as consultation.

Families of students with disability have a key role to play in relation to providing information regarding assessment of educational needs, formulating individual learning plans, learning styles and general information pertaining to the needs of their child. Family experience must inform educational programs of students with disability. Best practice in relation to students with disability is viewed as a collaborative approach between the student, family, education providers and other professionals involved, i.e. consultation.

A frequent concern articulated by families of students with disability is a perceived inadequacy to identify the need or type of educational support required by their children. This concern is voiced in reference to teachers, principals and state and territory educational authorities.

It is a typical experience to have concerns ignored or not addressed due to lack of understanding, funding and a systemic lack of will to work towards providing maximum educational opportunities for students with disability. Parents often raise concerns with teachers, principals, regions, educational authorities and members of parliament to no avail.

In addition to the requirement in the Standards to consult, it is stated in the Family-School Partnerships Framework (DEEWR, 2008) that “research demonstrates that effective schools have high levels of parental and community involvement.

The involvement is strongly related to improved student learning, attendance and behaviour. Family involvement can have a major impact on student learning, regardless of the social or cultural background of the family.”

Recommendations

- A definition of ‘consult’ is included in the Standards as well as direction as to when it should occur.
- The Standards include a requirement that all students with disability have an individual education plan which cannot be enacted without the signed consent of the student or their representative.

Further clarification of what constitutes ‘participation’ is also needed. It is the experience of CDA that many students with disability may often have a physical presence in an educational setting but are often denied opportunities to participate in curriculum. It is still common for students with disability in mainstream settings to have a completely different curriculum rather than a modified curriculum.

It is also common for specialist units or baserooms to exist for students with disability within mainstream schools and for there to be no or little opportunity for inclusion in the wider school community.

A student in year 8 spoke of students who are in a base room at his secondary school. “These kids are referred to as ‘the (name of school)’s. I have two brothers with disability so I could guess that these kids had disabilities as well. I was upset and worried because my mates laugh at these kids, tease them and have nothing to do with them. No-one has ever talked to us about these kids and explained what’s going on for them or said what extra support they need. I’m pretty used to disability but to be honest I’m scared of these kids. We just need the opportunity to talk and some support to get to know these kids.”

It is often reported that students with disability are excluded from participation in school camps, performances and some activities. At times this is because funding is not available to provide the support required. In other instances, exclusion occurs because there is a presumption that a student cannot participate or a lack of will or expertise to modify the activity to ensure the inclusion of a student with disability.

Recommendation

- Clarification of ‘participation’ is included to ensure that it is not presumed that students with disability ‘participate’ in an education program simply because they have a physical presence.

d) Are there any parts of the Standards that need additional explanation or details of where to find additional information?

It is the experience of CDA that the knowledge regarding the existence of the Disability Standards for Education amongst students, families, teachers and principals is extremely poor.

It is usually the case that members of CDA are unaware of the existence of the Standards and thus usually ignorant regarding the rights and protection afforded to students with disability through the Standards. Typically, if members are aware of the existence of the Standards it is often the case that there is limited knowledge of how they will assist their child with disability.

CDA recently surveyed its members as part of a strategic planning consultation. Rights and entitlements in relation to education were identified by members as a key area about which they wanted more information.

It is stated in the Ministers' Foreword to the Standards that the 'Australian Government will contribute to the development of professional development materials for education institutions to support the implementation of the Education Standards'. It is unclear what practical implementation this involved but it would appear it has been extremely unsuccessful given the extent of ignorance reported by education providers regarding the existence of the standards.

It is also often mistakenly presumed by schools that specific supports and assistance should only be provided to students who receive funding under disability education programs and not to students with disability as defined within the Disability Discrimination Act 1992.

A member was recently discussing with a secondary school the additional supports required for her son who would be commencing Year 7 the following year. The school were hesitant to meet until the outcome of a funding application was known. The school believed that obtaining a successful outcome would dictate what responsibilities they had in relation to the provision of specific or additional educational supports and strategies.

Recommendations

- Mandatory training and professional development of all staff of education authorities, state and federal education departments and education providers on relevant human rights, legislation and disability education standards.
- Provision of a copy of the Standards to all families/carers of students with disability.
- Establishment of a website which details educational rights & entitlements of students with disability.
- That provision of funding to educational authorities be contingent on the establishment of an action plan detailing how education providers will be informed and receive professional development on the responsibilities under the Standards.
- Development of a system which records known breaches of disability education standards and informs the Department of Employment, Education & Workplace Relations of these breaches. There should be a mandatory requirement that action be taken to address identified systemic issues of concern.

Question 2 — Rights under the standards

a) Are you aware of your rights to enrol, access support and participate in education and training?

Please refer to questions 1(c) and (d) of this submission.

Parents of children with disability often report that before their child started school they were not provided with enough information about schooling options for their children with regard to choices of schooling. A system must be implemented that ensures families can make informed choices in relation to schooling options for their child. This should include information regarding the funding and support available, application processes and requirements and what types of support are available in different school settings. This type of information should also be available to families when students are transitioning to secondary school.

Access is often construed as only applicable to issues regarding physical disability. It is the view of CDA that more training, expertise and funding be available to ensure that other areas relating to the identification and application of issues concerning access to educational programs is possible.

For example, it is necessary for a Year 7 student to complete the majority of his work on a laptop due to difficulties he has with fine motor skills which impact on his speed, legibility and effort required to write. The school could not make a computer available for him. It was the expectation that his parents purchase a laptop and associated software (Microsoft Word). The parents informed the school of their obligations under the Standards and the school offered to pay half the costs of the software. There was also no capacity for the student to obtain the software through the multi-user arrangement the school had purchased because the school did not own the computer.

b) Are you aware that these rights are protected under the Disability Standards for Education 2005?

Please refer to question 1(d) of this submission.

c) Where did you find out about the Standards?

Most families seem to 'stumble' across the Standards. There appears to be no systemic process which ensures students & families are informed that the Standards exist. No member has ever reported to CDA that an education provider has informed them of the existence of the Standards.

Recommendations

- Establishment of a national website and associated telephone service, which is independent of educational authorities, and provides information on the Standards and school options for students with disability.
- Mandatory training and professional development of all staff of education authorities, state and federal education departments and education providers on relevant human rights, legislation and disability education standards.

Question 3 — Access to education and training opportunities

a) Have you or a person you know with disability, experienced difficulties enrolling in an educational institution or participating in educational activities on the same basis as people without disability? If so, why do you think this occurred?

Families are often directly told that their child is unable to attend a school because of the child's disability or they are left with a feeling that their child would be such an inordinate burden on a particular school that they seek other options. Another common occurrence is that funding only allows a student to attend part-time. This is the clearest example of discrimination against students with disabilities.

The reality for many students with disability is that they cannot go to their local school because the school cannot meet their needs or they don't want them. Parents often feel they have no option but to send their child to a specialist disability school.

Recently a family reported that in a meeting with their son's inclusion support co-ordinator they were told that their son had no option but to go to a special school for his secondary education as he would not continue to be supported in a mainstream setting.

It needs to be recognised that the difficulty of obtaining adequate funding to support children with disability plays a big part in this scenario. Please see Appendix A for a copy of CDA's submission to the Review of Funding for Schooling.

b) Please describe any instances where the Standards have enabled someone with disability to access education and training opportunities.

CDA is aware of numerous court cases where the Standards have been used to obtain equal access and support for students with disability on the same basis as students without disability. Very rarely has CDA been made aware of the Standards being used at a school provider level to ensure this same access.

c) Are the provisions for consultation and reasonable adjustment clear and adequate?

The provisions for both consultation and reasonable adjustment are unclear and inadequate under the Standards.

Please see question 1(c) of this submission for discussion on the need for clarification and definition of 'consultation'.

The provision for reasonable adjustment under the Standards also needs further clarification as the term can be interpreted too broadly. This is particularly relevant in relation to reasonable adjustments that would impose "unjustifiable hardship" on education providers. Education providers often state that they are unable to make a

reasonable adjustment because of lack of funding support for the student. As a result situations arise such as those where children are only allowed to attend school part-time because the schools will not or are unable to provide the additional funding for the support required.

The submission to this Review by the Disability Discrimination Legal Services (DDLS) discusses the provisions for consultation and reasonable adjustment as described in the Standards. CDA endorses the comments and recommendations DDLS provides in its submission for these provisions.

Question 4 — Eliminating discrimination

a) Describe any instances where the introduction of the Standards played a part in eliminating discrimination experienced by a person with disability in an educational setting?

Please see question 3.

b) How could the Standards be improved to help prevent a person with disability from experiencing discrimination, harassment or victimisation in an educational setting? If possible please provide an example.

This question is addressed in other responses included in this submission.

Question 5 — Awareness and recognition

a) Do you think the Standards have raised awareness and increased understanding of the issues affecting people with disability and their rights to access and participate in education and training?

Despite Australia being a party to international human rights treaties, and the existence of State and Commonwealth discrimination legislation and the existence of the Disability Standards for Education, education remains one of the most significant issues of concern for children with disability and their families. At best families of children with disability believe that their children have limited opportunities to be enriched and extended through education and that the present system is awash with low expectations and standards for students. At worst, parents are concerned about treatment that could arguably breach the *UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984*. Reports of children being locked in “time out” rooms come uncomfortably close to false imprisonment. Reports of physical restraint and manhandling approach assault, and do not seem to be supported by departmental policy.

In 2009, it was estimated that 492,500 children and young people aged 0–24 years (6.8% of all children and young people aged 0–24 years) in Australia had a disability. Of these, 323,800 children and young people aged 5–24 years were reported as having a schooling or employment restriction (Australian Bureau of Statistics 2010).

The most recent statistical data (Australian Bureau of Statistics 2004) supports reported family experiences of children with disability and illustrates that there is a significant gap between educational outcomes of children with disability and those without disability:

- 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.
- 12.7 per cent of people with a disability had completed a bachelor degree or higher compared to 19.7 per cent of people without a disability.
- 53 per cent of people with a disability participated in the labour force compared to 81 per cent of people without a disability.
- 8.6 per cent of people with disability were unemployed compared to 5 per cent of people without disability

Further data indicates that an estimated 110,300 students with disabilities were not provided with any special support in school (43% of students with disabilities). Of the 110,300 students not provided with any special support, 55% did not experience any difficulties in school and 45% did (Australian Institute of Health and Welfare 2006).

The inadequacies of the education system for students with disability and the need for reform have been documented over a number of years. Various reports commissioned by the Australian Government highlight the issue. These include but are not limited to the following:

- *“Education of students with disabilities”* (2002) Commonwealth of Australia, Senate Inquiry
- *“Investigating the Feasibility of Portable Funding for Students with Disabilities”* (2007) Monash University.
- *“Making Progress”* (2008) Australian Institute of Health and Welfare
- *“Shut Out”* (2009) National People with Disabilities and Carers Council

These figures and experiences demonstrate that the Standards have been unsuccessful in raising awareness and increasing understanding of the issues affecting people with disability and their rights to access and participate in education and training

It is the view of CDA that the Standards have the potential to be a powerful tool for this purpose. This is contingent on further clarification of the definitions and clarification regarding the terms mentioned previously in this submission. It is also vital that a national awareness campaign of the Standards be established for education authorities, education providers and students with disability and their families. Finally, compliance with the Standards must be linked with funding as there needs to be clear consequences associated with realising the rights and entitlements for students with disability according to the Standards.

CDA discussed the issue of ‘awareness and recognition’ in detail in its submission to the ‘Review of Funding for Schooling’. It is believed the comment made in relation to social inclusion are relevant to this area. The section is included below.

Social Inclusion

According to the Australian Government’s social inclusion website (<http://www.socialinclusion.gov.au>) “The Australian Government’s vision of a socially inclusive society is one in which all Australians feel valued and have the opportunity to participate fully in the life of our society. Achieving this vision means that all Australians will have the resources, opportunities and capability to learn, work, engage in the community and have a voice.”

Education, at all levels from early childhood to tertiary, has a vital role to play in achieving this vision for people with disability in Australia. Education institutions are in a unique position to set the scene for a new generation of Australians. They should be communities where students with disability have their rights acknowledged in regard to equal access to education, and authentic inclusion flourishes. This vision involves students with disability being appropriately supported to enable them to make unique contributions to individual communities and in turn the wider society. It is the view of CDA that communities are greatly enriched through the active participation of children with disability.

Parity of funding is also important for promoting social inclusion throughout all school sectors and communities. Funding should be linked to social inclusion performance

indicators, which have set targets that are agreed upon by all education providers as part of a national funding model. State governments and non-government education providers will have a responsibility to show that these targets are being met and their performance against set social inclusion indicators measured and reported on the MySchool website (www.myschool.edu.au). CDA recommends that the federal government provide additional funding to develop and support this initiative.

To support this vision, awareness needs to be raised about disability and support initiatives that promote social inclusion for children with disability in schools and communities should be established. Consideration should be given to:

- Education and awareness about disability and social inclusion should be included as a compulsory subject in the national curriculum.
- Education and awareness programs on inclusion should be provided to government departments, local communities and stakeholder groups including school councils and boards.
- Information should be available through schools to promote and acknowledge the contribution of children with disability to school communities.
- Cultures of inclusion should be enhanced and encouraged in schools and between schools.
- The establishment of “buddy” programs or other initiatives for students with disability including those in special schools or special educational units.
- Incentives should be given for special schools and mainstream schools to form partnerships and collaborate to provide better opportunities for all students with disability to be included in mainstream programs. Many of the current ‘base room’ arrangements where special schools have educational units within mainstream settings provide very little opportunity for inclusion.

A mainstream high school has a specific program and unit for students with autism spectrum disorder. There is no provision of education on disability or social inclusion to the wider school community.

Recommendations

- Funding should be provided to develop a social inclusion indicator for schools that is made available on the MySchool website.
- Mandatory training and professional development of all State, Territory and Commonwealth Departments of Education on relevant human rights, legislation, disability education standards and the national disability strategy.
- Provision of ongoing training to all school level staff on rights of children with disability, disability education standards, social inclusion and general training on disability.
- Development of subject on disability and social inclusion to be included as part of a compulsory national curriculum.

Question 6 — Compatibility with current education system

a) Are there any current education or training issues that are not covered by the Standards but should be?

As per question 1(a) CDA believes the purpose of the Standards being 'to ensure that students with disability should be able to access and participate in education on the same basis as other students' is clear. The 'parts' contained within the standards cover the breadth of considerations relevant to students with disability and their right to access education on the same basis as other students.

b) Are you aware of any educational institutions that are not covered by the list in Part 1.5 of the Standards?

No

Summary of key recommendations

1. A definition of 'consult' is included in the Standards as well as direction as to when it should occur.
2. The Standards include a requirement that all students with disability have an individual education plan which cannot be enacted without the signed consent of the student or their representative.
3. Clarification of 'participation' is included to ensure that it is not presumed that students with disability 'participate' in an education program simply because they have a physical presence.
4. Mandatory training and professional development of all staff of education authorities, state and federal education departments and education providers on relevant human rights, legislation and disability education standards.
5. Provision of a copy of the Standards to all families/carers of students with disability.
6. Establishment of a website which details educational rights & entitlements of students with disability.
7. That provision of funding to educational authorities be contingent on the establishment of an action plan detailing how education providers will be informed and receive professional development on the responsibilities under the Standards.
8. Development of a system which records known breaches of disability education standards and informs the Department of Employment, Education & Workplace Relations of these breaches. There should be a mandatory requirement that action be taken to address identified systemic issues of concern.
9. Establishment of a national website and associated telephone service, which is independent of educational authorities, and provides information on the Standards and school options for students with disability.
10. Funding should be provided to develop a social inclusion indicator for schools that is made available on the MySchool website.
11. Provision of ongoing training to all school level staff on rights of children with disability, disability education standards, social inclusion and general training on disability.
12. Development of subject on disability and social inclusion to be included as part of a compulsory national curriculum.

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Appendix A

Review of Funding for Schooling Submission



Review of Funding for Schooling

March 2011

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Please note the examples used in this submission are actual educational experiences of students with disability in Australia.

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Executive summary

The legislative and policy context relevant to the education of students with disability is extremely comprehensive. It clearly articulates and promotes Australia's commitment to the rights of children with disability to receive a quality, free and inclusive education in a manner conducive to a child achieving the fullest possible social inclusion and individual development.

Adequate funding is essential for the realisation of these rights and commitments. Children with Disability Australia believes that the present funding available for students with disability is grossly inadequate. The quantum and delivery of funding must change if students with disability are to be able to access education on an equal basis to other children in Australia.

Children with Disability Australia

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Collaboration: with relevant non-government, government and private sector partners to promote the interests of children and young people with disability.

Transparency: within CDA's governance structures, decision-making processes, financial expenditure and reporting activities.

Why we need to improve — one student's experience

A student qualified for specific funding under the State's program for students with disability. He has an autism spectrum disorder. This equated to about \$21,000 per year. He attended a government school.

Upon transition to secondary school the student found it increasingly difficult to cope at school. The family found that teaching staff, integration workers and integration coordinators had received little training in disability. His parents requested that part of his funding be used to bring in services that would assist the child to access his education such as an occupational therapist. They were informed this was not possible. The family offered to fund the specialist school based consultations personally and were again told this was not possible. The family believed there were no accountability mechanisms for that funding.

The student was unable to access his education and was frequently excluded from school. In the months from February to April the student spent more time at home than he did at school. He became depressed and contemplated suicide. The student was 13 years old at the time.

School exclusions were sometimes related to 'disciplinary matters' or to school personnel feeling that the student was stressed and should be kept at home. This impacted on his mother's ability to maintain employment.

The family was 'forced out' of the government school system despite numerous efforts to resolve concerns at school, regional and ministerial levels. The family didn't choose to leave the government sector — they could not find a government school that would accept their child's enrolment.

The student was directed to distance education where it was discovered that he could not transfer the funding obtained through the program for students with disability. Upon enrolling the family found a large number of students with similar experiences in relation to education. It was their view that distance education was ill equipped to handle the situation. At one meeting with distance education personnel, a staff member interrupted the discussion about the difficulties experienced by the student to ask the family representative advice on strategies for another student with disability enrolled in the system.

The family were required to apply for Commonwealth funding to obtain in home assistance which was obtained to the value of \$14,000. The rate of \$35 per hour for home tuition was approved. The family found that most skilled tutors charged \$80–\$120 per hour and it was expected that they would fund the shortfall. The family couldn't afford this and without this home support their son could not access his education.

After six months of trying to make things work the situation became so difficult that their child's mental health deteriorated dramatically. He could not continue with his educational program. The mental health professionals involved advised the family to cease the program due to the effect on his wellbeing.

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The student did not return to school for two years. During that time both the health professionals involved and family tried to no avail to locate a government school. Finally a small private sector school enrolment was secured. This has come at a cost to the family of \$20,000 per annum.

The maximum amount of funding available for students with a disability in the private sector system at the time was \$3000 per year. This was a huge difference to the \$21,000 the student qualified for in the government education sector.

The family applied for their son's disability support funding to be transferred to his new school and were informed this was not possible.

The student is doing very well at his new school. The student copes at this school because he is more suited to the small student population, approximately 70 students, and the associated small class sizes. In addition, the school has ensured he can access the curriculum and his inclusion support needs are built into their program. His position is only secure if his family has the ability to pay his annual fees.

Introduction

Education is highly valued in Australia. It has been a priority of many governments to ensure that we have a quality education system that provides students with skills and knowledge that will enable children maximum opportunities to progress successfully through life.

For many years Australia has grappled with establishing an education system that provides for the diverse needs of our population. A system is needed which encompasses students with different cultural and religious backgrounds, abilities, socio-economic backgrounds and incorporates a model that has both government and non-government schools.

In recent years considerable focus has been on accountability and transparency of educational outcomes within our school system. This is particularly reflected in the introduction of the MySchool web site. The notion of fairness in education is also being given much consideration. Considerable discussion has occurred regarding the best means of ensuring that inequities in education are overcome. Philosophically children in different circumstances should all receive a quality education and there shouldn't be disparities in access, resources, standards of teaching or expectations.

Presently there is a large gap between educational outcomes of children with disability and those without disability. This reflects the extremely significant concerns expressed regarding the educational experiences of students with disability. Many of these concerns relate to insufficient funding or the inability to utilise funding for identified needs and in different settings. The present education system does not adequately meet the needs of students with disability.

The Australian Government announced that it would be conducting a review of school funding arrangements to inform a new funding framework that will commence in 2014. The review aims to identify the best funding allocation model for all Australian schools, both government and non-government, to ensure that funds are directed to where they are needed most.

In December 2010 the Review of Funding for Schooling Emerging Issues Paper was released. A dominant concern highlighted was the inadequacies of funding for students with disability and additional educational needs. This issue was raised by a large number of groups from all states and territories. Groups expressed concern that the lack of funding had a major impact on the ability of schools to meet the needs of these students. Lack of transparency of the funding system for students with disability and the lack of a nationally consistent definition of disability was also raised.

CDA has a passionate commitment to advocate for the provision of high quality education for children and young people with disability. 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.

CDA therefore welcomes this opportunity to provide a submission to the Australian Government regarding the review of funding for schooling.

Rights and entitlements

The United Nations *Convention on the Rights of Persons with Disability 2006* and the *Convention on the Rights of the Child 1989* clearly establish the right of children with disability to receive a quality, free and inclusive education. Australia has signed and ratified both of these international human rights treaties, thereby demonstrating its commitment to protect and respect the rights, standards and obligations contained in both international treaties.

Accordingly, Australia must ensure that its domestic laws, policies and programs are compatible with the rights contained in these treaties. Under the *Convention on the Rights of the Child*, article 2 states that ***“State Parties shall undertake all appropriate legislative, administrative and other measures for the implementation of the rights recognized in the present Convention. With regard to economic, social and cultural rights, Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation.”***

Specific reference is made in Article 23 of to the rights of children with disability to ***“enjoy a full and decent life, in conditions, which ensure dignity, promote self reliance and facilitate the child’s active participation in the community.”***

Articles 28 & 29 stipulate a child’s rights in relation to education. These include:

- ***Compulsory and free primary school education***
- ***Encouragement of the development of different forms of secondary education, including general and vocational education, making them available and accessible to every child, and taking of appropriate measures such as the introduction of free education and offering financial assistance in the case of need***
- ***Accessible higher education to all on the basis of capacity by every appropriate means***
- ***Accessible and available educational and vocational information and guidance to all children and***
- ***Development of the child’s personality, talents and mental and physical abilities to their fullest potential.***

The *Convention on the Rights of Persons with Disabilities* refers in Article 7 to the obligation of ***“State Parties to take all necessary measures to ensure the full enjoyment of children with disabilities of all human rights and fundamental freedoms on an equal basis with other children.”***

Article 24 specifically relates to education. It says ***“State Parties recognize the rights of person with disabilities to education. With a view to realizing this right without discrimination and on the basis of equal opportunity, State Parties shall ensure an inclusive education system at all levels and life long learning directed to:***

- 1. The full development of human potential and sense of dignity and self-worth, and the strengthening of respect for human rights, fundamental rights and human diversity;**
- 2. The development by persons with disabilities of their personality, talents and creativity, as well as their mental and physical abilities, to their fullest potential;and**
- 3. Enabling persons with disabilities to participate effectively in a free society.**

In essence, both the *Convention on the Rights of Persons with Disability* and the *Convention on the Rights of the Child* clearly identify the Australian Government's legal responsibility to ensure that children with disability receive a quality, free and inclusive education. Adequate funding for education for children with disability is an essential aspect of Australia "undertaking all appropriate measures" to ensure that all Australian children receive an education on an *equal basis* with others.

The primary legislative means which promotes the rights and entitlements of people with disability in Australia is the *Disability Discrimination Act* (1992). It has the related aim of eliminating discrimination. Further state and territory legislation exists with similar objectives.

In accordance with the *Disability Discrimination Act* (DDA), the Australian Government formulated the Disability Standards for Education in 2005. These Education Standards provide a framework to ensure students with disability are able to access and participate in education on the same basis as other students. The DDA makes it unlawful to contravene a disability standard, and compliance with a disability standard is taken to be compliance with the DDA.

In February 2011, the Council of Australian Governments (COAG) endorsed Australia's first National Disability Strategy to show their commitment to providing a unified, national approach to improving the lives of Australians with disability, their families and carers. Six outcome areas were identified as requiring policy action due to evidence of inadequacies or inequalities for people with disability.

Significantly, one of these six outcome areas relates to "Learning and Skills" for people with disability clearly demonstrating that current policies are not adequately addressing this issue. Overall the policy directions identified in the National Disability Strategy under this section focus on a commitment by the Australian Government to improve educational programs and outcomes for children and young people with disability.

The legislative and policy context relevant to the education of students with disability is extremely comprehensive. It clearly articulates and promotes Australia's commitment to the rights of children with disability to receive a quality, free and inclusive education in a manner conducive to a child achieving the fullest possible social inclusion and individual development.

The educational experiences of children and young people with disability

Despite Australia being a party to international human rights treaties, and the existence of State and Commonwealth discrimination legislation, education remains one of the most significant issues of concern for children with disability and their families. At best families of children with disability believe that their children have limited opportunities to be enriched and extended through education and that the present system is awash with low expectations and standards for students. At worst, parents are concerned about treatment that could arguably breach the UN *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* 1984. Reports of children being locked in “time out” rooms come uncomfortably close to false imprisonment. Reports of physical restraint and manhandling approach assault, and do not seem to be supported by departmental policy.

In 2009, it was estimated that 492,500 children and young people aged 0–24 years (6.8% of all children and young people aged 0–24 years) in Australia had a disability. Of these, 323,800 children and young people aged 5–24 years were reported as having a schooling or employment restriction. (Australian Bureau of Statistics 2010).

The most recent statistical data (Australian Bureau of Statistics 2004) supports reported family experiences of children with disability and illustrates that there is a significant gap between educational outcomes of children with disability and those without disability:

- 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.
- 12.7 per cent of people with a disability had completed a bachelor degree or higher compared to 19.7 per cent of people without a disability.
- 53 per cent of people with a disability participated in the labour force compared to 81 per cent of people without a disability.
- 8.6 per cent of people with disability were unemployed compared to 5 per cent of people without disability.

Further data indicates that an estimated 110,300 students with disabilities were not provided with any special support in school (43% of students with disabilities). Of the 110,300 students not provided with any special support, 55% did not experience any difficulties in school and 45% did. (Australian Institute of Health and Welfare 2006).

The inadequacies of the education system for students with disability and the need for reform have been documented over a number of years. Various reports commissioned by the Australian Government highlight the issue. These include but are not limited to the following:

- *“Education of students with disabilities”* (2002) Commonwealth of Australia, Senate Inquiry.
- *“Investigating the Feasibility of Portable Funding for Students with Disabilities”* (2007) Monash University.

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- *“Making Progress”* (2008) Australian Institute of Health and Welfare.
- *“Shut Out”* (2009) National People with Disabilities and Carers Council.

Many families report that, through their educational experiences, their children are subjected to: limited opportunities; low expectations; exclusion; bullying; discrimination; assault; and violation of human rights.

Increasingly families of children with disability are successfully pursuing legal action against state education departments to have the educational needs of their children recognised and met. In some instances families are taking their cases to the Australian Human Right’s Commission to pursue legal action for breaches of human rights against their children.

Many education providers are also genuinely concerned that they are unable to meet the needs of children with disability due to the lack of funding, lack of trained teachers and support provided by education authorities. This was highlighted when the New South Wales Principals Association threatened to sue the Department of Education in relation to funding for students with disability. It is of great concern to CDA that state and territory governments continue to settle legal cases without addressing the systemic issues they raise.

Funding support for children with disability also varies greatly between school sectors, with non-government schools not generally receiving the same level of funding as government schools.

Recently CDA requested families share their educational experiences as part of a separate report it is preparing regarding education. The contributions received reflect appalling experiences of discrimination, inadequate and inflexible funding and a system that is failing to recognise the educational rights of far too many children and young people with disability.

These quotes from families reflect aptly an inadequate education system for children with disability.

“Every promise of support and modification has yet to be delivered.”

“Parents should be able to make choices about where they send their children and the funding should support these children wherever they go.”

“My son was never given the opportunity to reach his full potential.”

“My child is clearly not quite as entitled to an education as the kid next door.”

Current funding for students with disability

In 2009 the Australian Government restructured its funding for schools and a new federal financial relations framework was established by the Council of Australian Governments (COAG) which provides funding to both government and non-government schools. Currently 79% of students identified as having a disability attend government schools and the remaining 21% attend non-government schools (Productivity Commission 2011).

Under this new framework government schools are funded through a base amount that is calculated through a formula agreed upon by all state and territory governments and linked to the National Education Agreement (NEA). The NEA “sets out the objectives and outcomes for schooling, the roles and responsibilities of government, performance indicators and benchmarks, reporting mechanisms and policy and reform directions”. State and territory governments then have the flexibility to use the funding through their own programs in order to satisfy the objectives under the NEA. Providing support to students with additional needs, including students with disability, is included as one of the many policy and reform objectives under the NEA.

Australian Government funding for children with disability in non-government schools is funded through the Literacy, Numeracy and Special Learning Needs Program (LNSLNP). Non-government educational authorities can use the funding for system, sector or school strategies, which directly contribute to achieving the LNSLN Program’s objectives.

State and territory governments actually provide the majority of funding for all students with disability through their own individual programs and initiatives. However, despite these initiatives, policies and standards are simply not being broadly implemented at the school level and the rights of many children with disability are being denied. Comparisons between state and territory programs are difficult because of differences in definitions of disability, the programs themselves and the availability of useful comparative data. The differences in eligibility criteria also mean that funding can literally stop or start at state borders.

The present intergovernmental funding arrangement on education negates accountability regarding the recognition of rights of children with disability. The Commonwealth is responsible under the relevant human rights Conventions and relegates responsibility to the states & territories as the major funders and providers of education for students with disability. This tiered system creates confusion regarding accountability to comply with the obligations stipulated.

Families at times pursue matters through the Australian Human Rights Commission or Federal Court with resolution being made regarding individual cases. These cases however have not been an impetus for systemic change. It is also worth noting that many families do not pursue their concerns to this level. Many are not aware of the rights of children with disability, many don’t have the time, many are exhausted and many fear the ‘fallout’ in the school system if they formally pursued a complaint.

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A simple example of the implications of the uncertainty which exists regarding intergovernmental responsibility relates to transport of students with disability to specialist schools in Victoria. For a number of years Children with Disability Australia and the Disability Discrimination Legal Service in Victoria have raised issues regarding extremely serious alleged breaches of human rights in relation to bus transport. This issue has been raised with the Department of Education, Early Childhood & Development, Victorian Minister for Education, Premier and now with the Federal Attorney General. The last advice received from the Federal Attorney General was that it was a state issue and responsibility. Further representation was then made to the Federal Attorney General requesting additional advice and still no response has been received some months later. Meanwhile literally years have passed whilst many children with disability endure what is perceived to be completely unacceptable conditions whilst being transported to and from school.

Presently it is also unclear as to what incentive state & territory government educational authorities have to implement national initiatives in education given the limited role and financial contribution made by the Commonwealth Government.

Future funding arrangements

It is apparent the present education system does not realise the rights of children with disability as enshrined in the Convention of the Rights on the Child and the Convention of the Rights on Persons with Disabilities.

Every child has a right to an education that provides them opportunity to reach their full potential. To achieve this it is imperative that national action is taken to address current barriers to learning and participation that confront children with disability.

The Commonwealth is responsible for ensuring that the educational rights of children with disability are provided in accordance with relevant human rights conventions. CDA therefore believes that this deferred responsibility needs to be clearly stipulated in the National Education Agreement (NEA) and under a similar agreement with non-government education authorities. To ensure obligations are met funds should be designated specifically to students with disability and additional learning needs. Under these agreements, key performance indicators and specific objectives that enable the provision and measurement of educational and social outcomes for students with disability should be specifically identified.

In this proposed model two streams of funding are recommended for students with disability that would be paid directly to schools. The first stream would be a school payment and would include funding for infrastructure, staff training and development and school based social inclusion initiatives. It would also provide funding to enable schools to provide resources, develop programs and undertake necessary curriculum modification for students with disability. As discussed in future sections of this report, it is proposed that a model similar to the NSW School Learning Support Program (New South Wales Government, 2011) be introduced. A funding formula would need to be established to take into account prevalence of disability, total enrolments, socio economic status indicators of the school and other relevant considerations.

The second stream would be allocated specifically to the student and managed at the school level. It would look at the individual requirements to ensure each child with disability can access education on an equal basis with other children. This student specific funding would be for the provision of inclusion support, aids, equipment and therapies. This funding would be portable and guaranteed for the student if a decision were made to change schools. The focus of assessment should be a child's abilities and functional level of need.

Schools should be required to consult with parents to develop an individual learning plan and the allocation of funding. It is believed that there should be a requirement that individual learning plans and related funding allocations should be developed with consensus at both the school level and with the student or family representative and 'signed off' accordingly.

A point of consideration raised in the emerging issues paper was whether school boards and councils should be involved in determining how funding is allocated. CDA does not support this suggestion for the allocation of funding for students with disability. It is believed it would be a blatant breach of privacy. In addition, school board or council members may not have any training or experience in disability and would therefore be ill equipped to make informed decisions regarding the allocation of resources for a child with disability.

Key considerations

CDA believes the following key considerations must be incorporated into a new funding model for students with disability.

Increase the quantum of funding

Funding is currently one of the most significant barriers to educational achievement for students with disability. Both families and education providers throughout Australia report that there is simply not enough funding available to ensure that the educational needs of students with disability are met on an equal basis with other children.

Whilst CDA acknowledges that all governments must consider budgetary issues, it would appear that funding for students with disability is grossly inadequate. As a consequence the primary consideration for many states and territories is to manage programs within existing funding constraints rather than ensuring the educational rights of children with disability are realised.

Between 1981 and 2003 the number of students with severe or profound disability attending school rose by 260 per cent nationally and the number of students with disability attending school overall increased by 93% (Australian Institute of Health and Welfare 2008). Given the prevalence of children with disability at school is increasing and current funding arrangements are inadequate, it is clear that a substantial increase in the quantum amount of funding provided nationally to support children with disability in schools is required.

Presently it is difficult to quantify the level of need. The identification of students with disability has been recognised as a process that should occur using a nationally consistent approach. There is no national data presently available that accurately identifies the number of students with disability and the level or type of additional supports required to ensure each child's educational rights are recognised. Each state and territory has their own system for identifying eligibility for funding support within their jurisdiction.

CDA is a member of the expert advisory panel commissioned by the Ministerial Council of Education, Employment, Training and Youth Affairs to assist in developing a national definition of students with disability and supports this initiative. The implementation of this definition will provide valuable information that can greatly assist with better defining the educational needs of students with disability and ultimately contribute to improved provision of education for students with disability and additional educational needs. CDA stresses the importance of collecting data that is based on the requirement of students for support as opposed to capturing only those students with disability who are receiving support. It is strongly recommended that continued funding is available to ensure that a national definition is established and implemented.

The consequences of insufficient funding for students with disability are significant. It is believed that it greatly contributes to many schools reluctance to accept students with disability. Families are often directly told that their child is unable to attend a school because of the child's disability or they are left with a feeling that their child would be such an inordinate burden on a particular school that they seek other options. Another common experience is that funding only allows a student to attend part-time.

The reality for many students with disability is that they cannot go to their local school because the school cannot meet their needs or they don't want them. Parents often feel they have no option but to send their child to a specialist disability school. It needs to be recognised that the difficulty of obtaining adequate funding is a major contributing factor in these scenarios.

It is imperative that students with disability or additional needs that require additional support are identified as early as possible. The importance of early intervention is well supported in other government interventions, the most relevant example being the Better Start for Children with Disability (Early Years) Initiative. This value of early intervention must be acknowledged within the schooling system and adequate funding must be available to ensure additional needs are met as early as possible.

The Centre for Community Child Health (2006) states that studies of good quality early intervention programs have shown that:

- they lead to improved psychosocial and health outcomes in the long-term
- they are particularly effective with children from disadvantaged backgrounds
- the earlier the intervention begins (and the longer it lasts), the more effective it is likely to be
- interventions need to address multiple environmental risk factors simultaneously rather than focusing on single issues
- sustained intervention over time (rather than intervention at a single time point) is most likely to be effective
- the nature and intensity of the intervention may vary over time because of changing circumstances and developmental needs, and needs to be flexible

Based on these findings it was recommended "expenditure in the early years should be regarded as an investment and is analogous to investing in physical infrastructure for the long term. Investment in early childhood needs to be incorporated into the economic debate about other forms of infrastructure."

Presently, a significant cohort of children miss out on additional individualised funding or support because they don't fit within existing eligibility criteria. A large proportion of children who miss out on receiving support are children with learning difficulties and/or challenging behaviour. It is believed that many of the challenges would be reduced if funding was available in earlier years to address the barriers that exist.

In addition, many behaviours demonstrated by children are often viewed as disciplinary issues rather than taking into account a child's disability. As a consequence challenging behaviour is often interpreted and dealt with inappropriately. This often results in an exacerbation of challenging behaviours and leads to children being suspended or expelled. There seems to be a lack of knowledge of best practice in these areas within the departments of education, in addition to the lack of resources to put them into place.

Funding recommendations

1. A substantial increase in the quantum amount of funding provided nationally to ensure the educational rights of children with disability are realised.
2. Continued funding is available to ensure that a national definition is established and implemented.

Effective use of funding

It is important to ensure funds allocated are utilised in the most efficient and effective way. Some areas identified by CDA where funding could be used effectively are:

The implementation of a program model such as the School Learning Support Program. This program allocates resources, including specialist teacher positions, to every school based on the number of enrolments and a student learning need index. Schools can then use the resources and the expertise of the specialist teacher to support their local needs. Students accessing this program can include those without a formal diagnosis or confirmed disability. Such a program could assist schools to provide support for the significant numbers of students in schools who have additional learning needs but are not eligible for funding under programs for students with disability. CDA believes that this program provides an efficient way to address the needs of these children and recommends that this program be implemented nationally.

Flexible individualised support should be available to students with disability.

Most schools and families can identify particular situations and times that typically require higher levels of supports. An example being grade transitions for students with autism spectrum disorder. If additional support is available in preparation for and during 'high need' times or situations, students can be appropriately supported. This approach is more resource effective and ultimately has better outcomes for the student concerned. The alternative is that these situations can cause considerable stress and exacerbate which is usually more resource intensive and has negative short and long-term consequences for the student.

Another common occurrence is that funding reviews are usually carried out in grade 6. In many situations these assessments lead to a decrease in the level of funding because the student has settled in a familiar environment. When many of these students begin a new high school they require additional support to adjust to the new environment which schools find extremely difficult to provide because of insufficient funding. Subsequently, the transition to high school is often reported as being very stressful.

Ensuring that funding levels are not reduced for students with disability at identified times of 'high need' could assist to minimise the barriers confronting students with disability. Additional flexible funding or support should also be available if required.

Students with disability should be able to access all aspects of the curriculum

on an equal basis with other children. It is often reported that children with disability are excluded from participation in school camps, performances and some activities because funding is not available to provide them with the support required. Flexible funding should be available for schools to ensure that children with disability are supported to participate in all aspects of school life.

A CDA member spoke of her daughter's experience at school. 'My daughter has met with a wide range of discrimination over her school life. Excursions were often planned with no thought to accessibility to venues or even transport needs. She has been asked not to use the toilet whilst on excursions. Family members were asked to attend camps to assist with care and had to pay full cost to attend for the privilege.'

Funding recommendations

1. Establishment of an appropriate program model such as the School Learning Support Program.
2. Availability of an additional flexible funding pool for schools to be able to access at identified times of 'high need' for individual students.
3. Ensure funding allocated to students allows access to all curriculum. For example inclusion support workers to attend camps and excursions.

Collaborative partnerships

Families of students with disability have a key role to play in relation to providing information regarding assessment of educational needs, formulating individual learning plans, learning styles and general information pertaining to the needs of their child. Family experience must inform educational programs of students with disability. Best practice in relation to students with disability is viewed as a collaborative approach between the student, family, education providers and other professionals involved.

A frequent concern articulated by families of students with disability is a perceived inadequacy to identify the need or type of educational support required by their children. This concern is voiced in reference to teachers, principals and state and territory educational authorities. In some instances family input is not sought, considered or respected when making decisions regarding educational programs.

Many families report the ongoing battle to have their children's educational rights and needs recognised. Families are often faced with having to continually advocate for their children's rights to access schools, funding resources and opportunities. It is a time consuming and exhausting process, often resulting in parental mental health issues and deteriorating relationships between parents and schools.

It is a typical experience to have concerns ignored or not addressed due to lack of understanding, funding and a systemic lack of will to work towards providing maximum educational opportunities for students with disability. Parents often raise concerns with teachers, principals, regions, educational authorities and members of parliament to no avail.

It is stated in the Family-School Partnerships Framework (DEEWR, 2008) that "research demonstrates that effective schools have high levels of parental and community involvement. The involvement is strongly related to improved student learning, attendance and behaviour. Family involvement can have a major impact on student learning, regardless of the social or cultural background of the family."

Effective parent/school partnerships are known to have a significant influence on a child's learning and when communities are also involved the benefits are often greater. It was based on this knowledge the Australian Government set up the Family-School & Community Partnerships Bureau (<http://www.familyschool.org.au>) to help Australian schools, families and communities build sustainable, collaborative, productive relationships.

It is believed that the Family-School Partnerships Framework developed by the Australian Government Department of Education, Employment and Workplace Relations (DEEWR) is an example of a model that could be used as a basis and adapted to specifically articulate and facilitate the role and collaborative partnership in relation to students with disability.

Health care professionals also often play a significant role in the life of a child with disability. Whilst their role is generally regarded as being 'outside' the education setting they often have a wealth of knowledge about a particular child that (with consent from families) could be invaluable to ensuring success for a child at school. For example a speech therapist who has seen a child since they were a year old would have considerable knowledge that could be utilised in the school setting. These professionals are potentially an important element of collaborative partnerships.

It is worth noting that under current systems many families of children with disability simply cannot afford private health professionals. However looking to the future it may be that with the increased availability of the Better Start Initiative (FaHCSIA 2011) and possibility a National Disability Insurance Scheme that there will be an increase in the number of children with disability who have had timely access to ongoing early intervention. Not only will this lead to more health professionals and therapists available to provide their expertise to assist schools in supporting these children but also may, in some cases, reduce the level or type of support required.

The facilitation of this collaborative partnership is envisaged as a key responsibility of coordinators appointed through the implementation of a program model such as the School Learning Support Program.

Funding recommendations

1. Establishment of a family/school/community framework specifically aimed at providing ongoing support and expertise in relation to educational needs of students with disability.

Choice

Families of students with disability should be allowed to choose a school for their child with the knowledge that the student will receive an education on an equal basis to others.

The differences in funding for students with disability between education sectors can put pressure on families and compromises their right to choose an educational setting for their child. It often forces parents to seek special settings rather than mainstream. Some families have reported that because of a lack of resources and lack of transparency regarding funding that they have been forced to change their child's school in order to find a school that adequately educates their child.

Parents of children with disability often report that before their child started school they were not provided with enough information about schooling options for their children regarding choices of schooling. A system must be implemented that ensures families can make informed choices on schooling options for their child. This should include information regarding funding and support available, application processes and requirements and applicability to different school settings. This type of information should also be available to families when students are transitioning to secondary school.

Funding recommendations

1. CDA recommends that children with disability should receive the same level of funding support at school regardless of the school sector (government or non government) or setting (special or mainstream).
2. Establishment of a national website and associated telephone information service, which is independent of educational authorities, regarding school options for students with disability.

Social inclusion

According to the Australian Government's social inclusion website (<http://www.socialinclusion.gov.au>) "The Australian Government's vision of a socially inclusive society is one in which all Australians feel valued and have the opportunity to participate fully in the life of our society. Achieving this vision means that all Australians will have the resources, opportunities and capability to learn, work, engage in the community and have a voice."

Education, at all levels from early childhood to tertiary, has a vital role to play in achieving this vision for people with disability in Australia. Education institutions are in a unique position to set the scene for a new generation of Australians. They should be communities where students with disability have their rights acknowledged in regard to equal access to education, and authentic inclusion flourishes. This vision involves students with disability being appropriately supported to enable them to make unique contributions to individual communities and in turn the wider society. It is the view of CDA that communities are greatly enriched through the active participation of children with disability.

Parity of funding is also important for promoting social inclusion throughout all school sectors and communities. Funding should be linked to social inclusion performance indicators, which have set targets that are agreed upon by all education providers as part of a national funding model. State governments and non-government education providers will have a responsibility to show that these targets are being met and their performance against set social inclusion indicators measured and reported on the MySchool website (www.myschool.edu.au). CDA recommends that the federal government provide additional funding to develop and support this initiative.

To support this vision, awareness needs to be raised about disability and support initiatives that promote social inclusion for children with disability in schools and communities should be established. Consideration should be given to:

- Education and awareness about disability and social inclusion should be included as a compulsory subject in the national curriculum.
- Education and awareness programs on inclusion should be provided to government departments, local communities and stakeholder groups including school councils and boards.
- Information should be available through schools to promote and acknowledge the contribution of children with disability to school communities.
- Cultures of inclusion should be enhanced and encouraged in schools and between schools.
- The establishment of “buddy” programs or other initiatives for students with disability including those in special schools or special educational units.
- Incentives should be given for special schools and mainstream schools to form partnerships and collaborate to provide better opportunities for all students with disability to be included in mainstream programs. Many of the current ‘base room’ arrangements where special schools have educational units within mainstream settings provide very little opportunity for inclusion.

A mainstream high school has a specific program and unit for students with autism spectrum disorder. There is no provision of education on disability or social inclusion to the wider school community.

Funding recommendations

1. Funding should be provided to develop a social inclusion indicator for schools that is made available on the MySchool website.
2. Mandatory training and professional development of all State, Territory and Commonwealth Departments of Education on relevant human rights, legislation, disability education standards and the national disability strategy.
3. Provision of ongoing training to all school level staff on rights of children with disability, disability education standards, social inclusion and general training on disability.
4. Development of subject on disability and social inclusion to be included as part of a compulsory national curriculum.

Accessibility

Accessibility in schools can be a major barrier that impacts on educational outcomes for children with disability. Families often report that schools do not allow for or provide appropriate accommodation of their children.

Providing better access in schools includes consideration of: the physical environment; alternative or additional communication; curriculum modification; and school transport.

Funding is usually made available to schools to adapt the schools infrastructure and provide access for children with physical disability e.g. ramps, lifts and accessible toilets. All new school buildings and renovations should also be required to be accessible in this way.

How information is provided to students and how students access the curriculum is also critical. This could include providing books and texts in alternative formats such as Braille or audiotape, or making teaching and learning adjustments to accommodate different learning styles. Assistive technology such as touch screens or communication devices should also be provided if necessary. Alternatively, curriculum often needs to be modified to allow access by students with disability.

Schools must be made aware of their responsibilities to provide access under the Disability Standards for Education 2005 and teachers should be provided with training and resources to enable them to modify the curriculum when required. Schools should consult with students and families on what reasonable adjustments are required for a particular student.

A mother was advised that her 6-year-old son would need to stay in the prep class for 3 consecutive years at the non government school he was attending. She was told that he would not get anything out of the educational program that was being provided for the children in Grades 1 & 2. It was also stated that he was a distraction to other students' learning time.

Transport is another factor that affects accessibility to school for students with disability. In most states and territories, children with disability who attend specialist disability schools are provided with access to bus transport to and from school. However, current transport regulations in most states have policies that consider travel in buses for up to two hours each way to get to and from school (4hrs a day) to be reasonable. This is not just confined to rural areas where distance is a major factor but also occurs in urban areas where distance between schools and student homes are minimal.

An 8-year-old boy was utilising bus transport provided by government to travel to and from a specialist disability school. Average travel time from home to school was 2 hours each way for a 10km trip.

Students with high physical and medical needs often enrol at special settings so that they can access therapies to address their functional needs. Sitting strapped into a bus seat for 4 hours a day negates the intention of these therapies and is not in the best interest of these children. Medical and behavioural issues have also been attributed to these inhumane conditions despite numerous complaints over a number of years to address the issue.

Funding Recommendations

1. Grants for adapting infrastructure to provide physical access for students with disability should continue. All new schools and any current school renovations or extensions should be accessible and comply with the Disability (Access to Premises) Standards 2010.
2. Funding needs to incorporate training and time required for curriculum modification. This should include the provision of assistive technology devices if necessary.
3. Every school should have an accessibility policy that outlines how they provide access to students with disability.
4. A review of transport for children with disability in Australia is needed which results in action being taken to improve this issue. In the interim, extra funding to provide more buses or alternative transport options for students with disability is required.

Accountability

There is very limited accountability under the education system for children with disability and there is a clear requirement for regular and transparent performance monitoring for evaluating educational outcomes for students with disability.

Many students have individual educational plans but these contain goals that are established, implemented and evaluated by schools. There is a prevailing concern that there is limited or no objective input into this process.

There are also concerns regarding the position of students with disability within the MySchool system. The NAPLAN assessment is not an appropriate measure of educational progress for some students with disability so it is unclear of the value and relevance of this accountability system for that cohort of students.

The other concern is that schools are inappropriately gaining exemptions for students with disability because of a concern that they will negatively affect total school performance.

Accountability under new funding arrangements should also link in with the Disability Standards for Education. Data should be collected in line with the measures for compliance with standards under this legislation. Incentives should be provided to governments and education providers for compliance with these standards.

Funding recommendations

1. The development of an alternate tool or system that tracks educational progress of students with disability for those students for whom NAPLAN is an inappropriate measure.

2. The development of a method of determining national literature and numeracy levels of students with disability.
3. The establishment and availability of an electronic form of NAPLAN.
4. The establishment of an independent audit system of individual education plans.

Post-school transitions

Many families report that their child with disability is provided with inadequate information regarding post school options and assistance with managing post-school transitions. The National Disability Coordination Office Program exists to “assist working age people (aged 15–64) with a disability who may wish to participate in, or who are currently enrolled in, post-school education and training.” This program ostensibly involves the provision of information about available post school pathways and options. It has also developed a number of valuable resources. For example ‘Preparing for TAFE: A Guide for Students with a Disability in Victoria’ and the equivalent guides which exist for other states and territories. It is unclear as to whether a systematic referral process exists in relation to this well regarded program. It appears referral is somewhat random and dependent on the systems in place in individual schools, parents’ initiation and/or other sources.

This program has approximately 40 offices nationally and works on a strategic and capacity building approach. It is vital that all schools are aware of its role and should ensure information and resources available are provided to students with disability and families.

Students with disability and their families however frequently report that planning for and the actual post-school transitional period is a time of great uncertainty and high stress regarding the future.

Funding Recommendations

1. Review of post school transitional planning process for students with disability and funding and implementation of an appropriate action plan to address emerging issues.

Students on the periphery

It is unclear whether national data exists regarding the number of students with disability who complete their education through distance education or home schooling. CDA was unable to locate this information and DEEWR also advised that they could not locate data on this cohort of students.

CDA believes there are a significant number of children with disability completing their education via this means. It is not uncommon for families to report that their children are home schooled or enrolled in distance education because, in their view, no other setting can be located that can adequately educate their child. In some instances families cannot locate a school that will enrol their child. The Commonwealth Special Education Program is at times accessed by students in these circumstances although it does not appear that this group of students is the intended target of the program.

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The Commonwealth Special Education Program provides grants for home based educational programs. The guidelines for this program state, "It is expected that almost all students of school age with severe and multiple disabilities will attend a regular or special school in their local area. Applications from schools and parents requesting support for a home-based educational programs may, however, be funded in exceptional circumstances. In allocating funding, consideration will be given to:

- the severity of student's disabilities.
- the fragility of the students health
- the degree of isolation from existing schools and visiting services and need for supplementary funding."

It is imperative that national data is collected regarding the number of students with disability completing their education through distance education and home schooling and the reasons for this. Funding initiatives could then be required depending on the outcomes of the information obtained

One mother stated, "Right as we speak I am giving up on the education system. My daughter is meant to be going to school in a matter of days. Instead, I am busy planning her home education. My child is 5½ years old."

Funding recommendations

1. Ensure national definition of students with disability incorporates students with disability completing education through distance education and home schooling.
2. Inquiry into reasons why students with disability are completing education through distance education and home schooling. Funding of action plan and implementation to address emerging issues.

Work force capacity

Given the increasing prevalence and complexity of students with disability, it is crucial that action is taken to meet the increased demand for specialist disability teachers, allied health professionals and appropriately qualified inclusion support workers. Presently, families frequently cite incidents where they are informed their child cannot attend school in the event that an inclusion support worker is away from school.

Education providers often speak of simply not having the capacity or resources to implement strategies that would enrich the educational outcomes for students with disability.

Funding Recommendations

1. Identification of a strategy for increasing workforce capacity in relation to students with disability

2. Adoption of a program model such as the School Learning Support Program which would increase capacity of individual schools to provide improved educational opportunities for students with disability.

Qualifications and training

The majority (89%) of school students with disability, aged 5–14 years, attend a mainstream school, in either a mainstream class (62%) or a special class (27%). A further 9% attend a special school. (Australian Institute of Health & Welfare 2006).

Despite most children with disability attending mainstream settings there are no national compulsory standards for qualifications for teachers or inclusion support staff working with students with disability. The result is that the majority of teachers in mainstream schools have had no specialised training or experience in teaching children with disability and many find it hard to cope. Trends also indicate that the numbers of children with disability attending mainstream school is continuing to increase. Together with the increasing complexity in needs for many of these children, mainstream teachers and inclusion support workers will continue to struggle unless they are provided with specialised disability training and support.

Inclusion support workers also are notoriously low paid despite their positions often being very demanding and requiring a high skill level. There is typically difficulty obtaining inclusion support workers and there is often a high turnover of staff.

CDA recommends that in addition to undergoing general disability training as described above, that there should also be incentives for all teachers and inclusion support workers to undertake additional training specifically related to supporting children with additional needs in the classroom. This should include training in the use of child specific approaches, the importance of individual needs as well as methods for adapting the curriculum to support individual needs.

Research shows that most important factors in determining the best outcome for students with disability or additional learning needs is not the type or amount of assistance they receive but the quality of that provision (Ofsted UK, 2006). The involvement of trained teachers was shown to be essential and CDA recommends that training regarding the education of students with disability at school should be a mandatory part of all teacher qualifications.

Funding recommendations

1. A requirement for all teachers and inclusion support workers to have a relevant qualification or obtain one.
2. Schools to receive additional funding for ongoing professional development according to number of students with disability enrolled and complexity of needs.
3. Incentives should be available for teachers and inclusion support workers who undertake specific training in disability.

Summary of funding recommendations

The Commonwealth is responsible for ensuring that the educational rights of children with disability are provided in accordance with relevant human rights conventions. CDA therefore believes that this deferred responsibility needs to be clearly stipulated in the National Education Agreement (NEA) and under a similar agreement with non-government education authorities. To ensure obligations are met funds should be designated specifically to students with disability and additional learning needs. Under these agreements, key performance indicators and specific objectives that enable the provision and measurement of educational and social outcomes for students with disability should be specifically identified.

In this proposed model two streams of funding are recommended for students with disability that would be paid directly to schools. The first stream would be a school payment and would include funding for infrastructure, staff training and development and school based social inclusion initiatives. It would also provide funding to enable schools to provide resources, develop programs and undertake necessary curriculum modification for students with disability. It is proposed that a model similar to the NSW School Learning Support Program be introduced. A funding formula would need to be established to take into account prevalence of disability, total enrolments, socio economic status indicators of the school and other relevant considerations.

The second stream would be allocated specifically to the student and managed at the school level. It would look at the individual requirements to ensure each child with disability can access education on an equal basis with other children. This student specific funding would be for the provision of inclusion support, aids, equipment and therapies. This funding would be portable and guaranteed for the student if a decision were made to change schools. The focus of assessment should be a child's abilities and functional level of need.

Recommendations

1. A substantial increase in the quantum amount of funding provided nationally to ensure the educational rights of children with disability are realised.
2. Continued funding is available to ensure that a national definition is established and implemented.
3. Establishment of an appropriate program model such as the School Learning Support Program.
4. Availability of an additional flexible funding pool for schools to access at identified times of 'high need' for individual students.
5. Ensure funding allocated to students allows access to all curriculum. For example inclusion support workers to attend camps and excursions.
6. Establishment of a family/school/community framework specifically aimed at providing ongoing support and expertise in relation to educational needs of students with disability.

7. CDA recommends that children with disability should receive the same level of funding support at school regardless of the school sector (government or non government) or setting (special or mainstream).
8. Establishment of a national website and associated telephone information service, which is independent of educational authorities, regarding school options for students with disability.
9. Funding should be provided to develop a social inclusion indicator for schools that is made available on the MySchool website.
10. Mandatory training and professional development of all State, Territory and Commonwealth Departments of Education on relevant human rights, legislation, disability education standards and the national disability strategy.
11. Provision of ongoing training to all school level staff on rights of children with disability, disability education standards, social inclusion and general training on disability.
12. Development of subject on disability and social inclusion to be included as part of a compulsory national curriculum.
13. Grants for adapting infrastructure to provide physical access for students with disability should continue. All new schools and any current school renovations or extensions should be accessible and comply with the Disability (Access to Premises) Standards 2010.
14. Funding needs to incorporate training and time required for curriculum modification. This should include the provision of assistive technology devices if necessary.
15. Every school should have an accessibility policy that outlines how they provide access to students with disability.
16. A review of transport for children with disability in Australia is needed which results in action being taken to improve this issue. In the interim extra funding to provide more buses or alternative transport options for students with disability is required.
17. The development of alternate tool or system that tracks educational progress of students with disability for those students for whom NAPLAN is an inappropriate measure.
18. The development of a method of determining national literature and numeracy levels of students with disability.
19. The establishment and availability of an electronic form of NAPLAN.
20. The establishment of an independent audit system of individual education plans.
21. Review of post school transitional planning process for students with disability and funding and implementation of an appropriate action plan to address emerging issues.

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22. Ensure national definition of students with disability incorporates students with disability completing education through distance education and home schooling.
23. Inquiry into reasons why students with disability are completing education through distance education and home schooling. Funding of action plan and implementation to address emerging issues.
24. Identification of a strategy for increasing workforce capacity in relation to students with disability
25. Adoption of a program model such as the School Learning Support Program which would increase capacity of individual schools to provide improved educational opportunities for students with disability.
26. A requirement for all teachers and inclusion support workers to have a relevant qualification or obtain one.
27. Schools to receive additional funding for ongoing professional development according to number of students with disability enrolled and complexity of needs.
28. Incentives should be available for teachers and inclusion support workers who undertake specific training in disability

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