
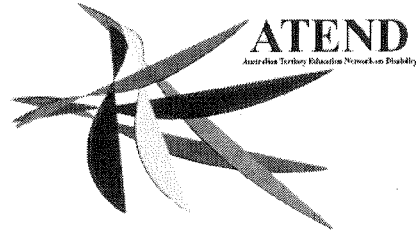


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Submission No. 39



28 October 2009

Mr Michael Danby MP
Chair
Migration Treatment of People with a Disability Review
Joint Standing Committee on Migration
Parliament House
Canberra ACT 2600

Dear Mr Danby,

The Australian Tertiary Education Network on Disability (ATEND) is a peak body of regional network groups of service providers and consumers concerned with the education and employment needs of people with disabilities in post-secondary education.

ATEND welcomes and supports the Joint Standing Committee on Migration's focus on the treatment of people with a disability. ATEND has sought feedback from its members to gain commentary regarding this matter. ATEND is of the belief that the Commonwealth Migration Act 1958 is one of the few statutory areas that actively discriminates against people on the basis of their disability both as potential citizens and student visitors. ATEND further holds that the exemption embedded in the Disability Discrimination Act 1992 (DDA) inordinately reinforces this discrimination and places the DDA at odds with its own principles and those of international covenants.

ATEND's submission concentrates on the Committee's second point of reference:

'Report on the impact on funding for, and availability of, community services for people with a disability moving to Australia either temporarily or permanently'

ATEND believes that this term of reference encompasses consideration of issues for international students with disabilities. ATEND recognizes that Australian tertiary institutions are increasingly reaching into the global market in order to attract international tertiary students. This is a potentially lucrative and therefore attractive enterprise for Australian tertiary institutions.

ATEND notes that the principles of the DDA are to eliminate discrimination on the basis of disability, as far as possible to ensure people with disabilities have the same rights as the rest of the community. More importantly the DDA mandates that students with disabilities are not deprived of equal opportunity in education because of prejudice, stereotyping, misconceptions, or by unnecessary barriers. It is within the consideration of 'prejudice, stereotyping and misconception' that ATEND asserts that international students with disabilities are discriminated against. Effectively students wishing to study in Australia are subject to the statutory obligations of the Migration Act without due consideration of their abilities.

The Commonwealth Disability Standards for Education 2005 states its purpose is to provide students with disability the same rights as other students. In contrast international students with disabilities are not encouraged or supported to study in Australia. ATEND acknowledges that certain types of disability support and infrastructure are costly and that the Australian tax payer should not be burdened with this. Further, ATEND supports the premise that international students requiring these modes of support are responsible for independently funding and supplying this. However, there remains a group of students that are dissuaded from attempting to gain tertiary qualification through study in Australia due to resourcing issues which are a perceived rather than actual.

The ramification for Australian institutions is twofold. Firstly Australian tertiary institutions are failing to offer an educational experience to a cohort of people, who could be successful students when provided with reasonable accommodations, for no other reason than misperceptions based on prejudice or stereotyping.

Secondly, such students choose not to disclose their disability so as to avoid the discrimination. It is recognized that up to 75% of people with disabilities have no physical indicators that they have a disability. Students with 'hidden disabilities' (such as psychiatric conditions and learning impairments) are less likely to disclose their conditions for fear of having their application for a student visa rejected. The flow on from this is that successful applicants then tend not to engage with support services here in Australia. This is highly problematic. Disclosure enables all parties to make informed decisions about the suitability of courses and individual units, the support available and contingency planning. The tertiary institution's disability support personnel are able to discuss this information at the point of the student seeking admission or ensuring that the student is linked in prior to their commencing study. It has been the experience of several tertiary practitioners that they are left in the position of having to manage by crisis. These students do not have recourse to the usual network of supports that are available to other students with a disability and this in turn may result in poor academic performance or the need emergency intervention. This is traumatic both to the student (and in many cases their families).

Australia has now signed United Nations Convention on the Rights of Persons with Disabilities (CRPD) and the supporting optional protocol. This international instrument serves as a reminder to Australia about its obligations as a global citizen. It is imperative that Australia thoroughly examines its statutory provisions in order to remove arbitrary barriers based on fear and ignorance. With this in mind ATEND offers its comments on this specific instance of discrimination regarding international students with a disability. Potentially only a limited number of students are compromised by our statutory provisions. However, our human rights and equal opportunity laws are meaningless rhetoric if a minority group continues to be systematically excluded from the opportunities availed to their peers without a disability.

Sincerely,

Helen Makeham
President
ATEND
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Murdoch University
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