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Inquiry into the Treatment of Migrants with Disability

Submission from the Department of Education, Employment and Workplace Relations to the Joint Standing Committee on Migration

December 2009

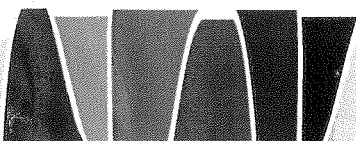


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Executive Summary

In bringing together the core elements of the Australian Government's productivity and participation agenda, the Department of Education, Employment and Workplace Relations (DEEWR) has a key role in the provision of education, skill development and employment opportunities for Australians.

In relation to migration, DEEWR informs the Australian Government on labour market, skill and workplace relations issues associated with the size, composition and criteria for a range of temporary and permanent migration arrangements. DEEWR's interests also include the short and long term impact of these arrangements on the Australian economy labour market and demography.

DEEWR is also responsible for administering education and employment services to eligible Australian citizens, Australian permanent residents and temporary visa holders, including those with a disability.



PART A: INTRODUCTION

1. Introduction – DEEWR Role

The Department of Education, Employment and Workplace Relations (DEEWR) is the Australian Government agency providing national leadership in education and workplace training, transition to work and conditions and values in the workplace.

DEEWR is accountable to the Australian Government, Parliament and to the public in achieving the following objectives:

- to educate and build socially inclusive communities where all Australians have the opportunity to reach their full potential and to actively participate in a rewarding economic and social life;
- to build and promote individual development through equitable and accessible education from early childhood services to skills training and higher education;
- to increase workforce participation and promote fair and productive work practices;
- to develop national economic potential and capability that builds future economic prosperity and international competitiveness through skills development and employment growth;
- to actively engage with clients and stakeholders to ensure services, advice and resources respond to the needs of these groups; and
- to look for efficiencies and innovative, targeted and effective solutions in developing national economic potential.

In bringing together the core elements of the Government's productivity and participation agenda, DEEWR has a key role in the provision of education, skills development and employment opportunities for Australians. In relation to migration, DEEWR informs the Government on labour market and workplace relations issues associated with the size, composition and criteria for a range of temporary and permanent migration arrangements.

DEEWR's interests also include policy advice and policy focussed research on the short and long term impact of these arrangements on the Australian economy, labour market and demography.

This Submission provides an overview of the Australian Migration Program and information on the services and programs that DEEWR provide for education and employment support. As these services and programs do not have common definitions of "migrant" or "persons with disability", reference must be made to the definitions which apply to each service or program.

PART B: Migration

2. Migration Policy and Programs – Overview and Current Criteria

2.1 Australia's Migration Program

The Migration Program is set by the Australian Government on a financial year basis following consultation with key government, industry bodies and community organisations. Australia is one of a small number of countries that manages a planned migration program based on transparent criteria. In general terms, the Migration Program includes a Skill Stream and a Family Stream, and a Humanitarian Program (which recognises Australia's ongoing commitment to a structured intake of humanitarian and refugee entrants).

The Skill Stream is currently the largest component of Australia's Migration Program. It contributes to the supply of skilled labour available to Australian industry through the permanent entry of migrants with skills (recognised qualifications and employment experience) and high levels of English language proficiency that are appropriate to employment in skilled (managerial, professional, associate professional and trade) occupations in the Australian labour market.

The Skill Stream includes migrants in the following categories:

- Employer Sponsored Migration which allows employers to nominate/sponsor personnel from overseas to work in Australia in skilled occupations through a number of visa options on a permanent basis;
- State Sponsored Migration which is designed to contribute to economic growth by contributing to the supply of labour in key occupations identified as in shortage by state and territory governments;
- General Skilled Migration which encompasses a number of permanent points-tested visas;
- Business Skills Entry designed to encourage successful business people to settle in Australia and develop new business opportunities; and
- Distinguished Talent visas are issued to those with special or unique talents of benefit to Australia such as sportspeople, artists, and musicians.

2.2 Health requirement for entry to Australia

The Department of Immigration and Citizenship (DIAC) has published information for permanent and temporary visa holders coming to Australia (Forms 1071i and 1163i) on the health requirement, procedures, and review mechanisms available if a visa is refused on health grounds.

DEEWR understands the entry health requirement is not based on any specific definition of disability and rather is designed to:

- minimise public health and safety risks to the Australian community;
- contain public expenditure on health and community services, including Australian social security benefits, allowances and pensions; and
- maintain access of Australian residents to health and community services.

2.2.1 Applicants for Permanent entry

All applicants for permanent visas including the main applicant, spouse and any dependents must be assessed against the health requirement. Applicants generally need to undertake a medical examination, an x-ray (if over 11 years of age) and a HIV/AIDS test (if over 15 years of age). The screening of hepatitis is sometimes required, and obesity may also be a considered factor. The examining doctor may request additional tests if deemed necessary¹.

Visa refusals tend to be for applicants with a costly health condition or those that require treatment, care or community services that are in short supply in Australia and where utilisation of these resources would result in Australian residents having to forego or wait longer for access.

The Migration Regulations allow for a waiver of the health requirement criteria in some circumstances, including humanitarian considerations or a close family relationship. Exercise of the waiver is on a case by case basis and will not be exercised where the visa applicant is assessed by a Medical Officer of the Commonwealth as representing a risk to the public health or safety of Australia.

DIAC has advised that a model formula exists to calculate the health and community services including costs for support accommodation, education, respite services, employment support, equipment services, rehabilitation and home care for migrants that have health conditions and/or disability. If the cost is estimated at \$21 000 and above over a five year period, the

¹ DIAC Form 1071i at www.immi.gov.au/allforms/booklets/1071i.pdf

applicant may be refused a visa. It is noted that English language services are not included in this costing estimate which was set in 2006.

2.2.2 Applicants for Temporary entry

The health requirement criteria for temporary entry visa stays varies depending on the country of origin, length of stay and activities likely to be undertaken in Australia. In some cases, the health requirement criteria will be the same as for permanent visa applicants. It is noted that for some temporary visa subclasses, the applicant is required to secure private health insurance prior to visa grant.

2.3 Profile of migrants with disability

The Australian Bureau of Statistics (ABS) has developed the Core Activity Need for Assistance factor in the Census to measure the number of people with a profound or severe disability. People with a profound or severe disability are defined as those people needing help or assistance in one or more of the three core activity areas of self-care, mobility and communication, because of disability, long term health condition (lasting six months or more) or old age.

Using data from the year of arrival and those that indicated requiring assistance with core activities, the 2006 Census shows that between 2001 and 2006, there was an annual average of 0.9 per cent of migrants that arrived and appear to have profound or severe disability.²

The table below shows data from the 2006 Census (of population and housing) on the total number of Australian born compared to overseas born people that are unemployed, including those that require assistance with core activities.

	Number of Unemployed	Unemployment Rate (%)	Workforce Participation Rate (%)	Total number of people
Australian born aged 15-44	277,072	5.9	78.2	6,019,726
Overseas born aged 15-44	97,706	7.4	73.7	1,796,613
Australian born aged 45-64	75,402	3.2	72.8	3,193,231
Overseas born aged 45-64	49,396	4.8	68.9	1,497,136
Australian born that require assistance with core activities aged 15-44	4,526	15.7	27.7	104,393
Overseas born that require assistance with core activities aged 15-44	685	17.1	25.2	15,845
Australian born that require assistance with core activities aged 45-64	1,568	8.8	14.4	124,326
Overseas born that require assistance with core activities aged 45-64	858	13.9	10.8	56,971

2.4 International Comparisons

The framework used by the World Health Organisation – the International Classification of Functioning, Disability and Health (ICF) – defines disability as an umbrella term for impairments, activity limitations and participation restrictions. It denotes the negative aspects of the interaction between an individual (with a health condition) and that individual's contextual factors (environment and personal factors).

According to ICF, a person has a disability if they report they have a limitation, restriction or impairment, which has lasted, or is likely to last, for at least six months and restricts everyday activities. This includes:

- loss of sight (not corrected by glasses or contact lenses);
- loss of hearing where communication is restricted, or an aid to assist with, or substitute for, hearing is used;
- speech difficulties;
- shortness of breath or breathing difficulties causing restriction;
- chronic or recurrent pain or discomfort causing restriction;
- blackouts, fits, or loss of consciousness;
- difficulty learning or understanding;
- incomplete use of arms or fingers;

² Noting this is a self assessment by the persons in the household that completed the Census

- difficulty gripping or holding things;
- incomplete use of feet or legs;
- nervous or emotional condition causing restriction;
- restriction in physical activities or in doing physical work;
- disfigurement or deformity;
- mental illness or condition requiring help or supervision;
- long-term effects of head injury, stroke or other brain damage causing restriction;
- receiving treatment or medication for any other long-term conditions or ailments and still restricted; and
- any other long-term conditions resulting in a restriction.

A summary of a DEEWR on-line literature review of the health requirements of Canada and New Zealand for migrants with disability is provided below.

2.4.1 Canada

Every permanent migrant visa applicant – and some temporary visa applicants – are required to undergo a medical examination. The examination will include assessing prior medical records, a mental state assessment and a standard physical exam including blood, urine and x-rays³.

Applicants will be denied solely on medical grounds if:

- the condition would endanger the larger population; and
- their admission may cause excessive demand on existing social or health services provided by the Government – however, this is waived under the family sponsorship category for spouse, common-law partner, conjugal partner and dependant children of the sponsor.

2.4.2 New Zealand

All applicants for visas and permits must have an acceptable standard of health unless they are entering for specific medical treatment. An acceptable standard of health, for applicants for residence, is if they are⁴:

- unlikely to be a danger to public health;
- unlikely to propose significant costs or demands on New Zealand's health services or special education services;
- able to undertake work or study on the basis of which they are applying for a visa or permit, or which is a requirement for the issue or grant of a visa or permit.

To determine whether an applicant for residence is unlikely to impose significant costs on New Zealand's health and education services are assessed by considering if:

- health costs exceed \$25 000 - with the criteria of this seemingly dependant on the type of condition, with acute medical conditions assessed over a 4 year period, chronic and recurring medical conditions assessed over the course of the illness;
- the Ministry of Education has determined that there is a high possibility that the applicant's physical, intellectual, sensory or behavioural condition/s will entitle result in "ongoing and reviewable resourcing schemes" educational funding; and
- the health care required is one where current demand is not being met.

Applicants for temporary entry have a separate criteria based upon the length of intended stay.

³ see www.canadavisa.com/immigration-medical-inadmissibility.html

⁴ see www.immigration.govt.nz/opsmanual/4893.htm

PART C: Policy and Legislation

3. Disability Policy

3.1 National Mental Health and Disability Employment Strategy

Through its Social Inclusion Agenda, the Government is committed to boosting employment opportunities for people with disability. On 14 September 2009, Senator the Hon Mark Arbib and the Hon Bill Shorten MP announced the new National Mental Health and Disability Employment Strategy, which recognises that a key to full inclusion is becoming part of the economic life of the nation. The development of the Strategy is a key part of the Government's response to increase employment opportunities for people with disability and mental health conditions.

Highlights of the Strategy include:

- new Disability Employment Services to give job seekers immediate access to personalised employment services better suited to their needs with stronger links to skills development and training;
- a Disability Support Pension Employment Incentive Pilot that will provide job opportunities for 1000 Australians who receive the Disability Support Pension;
- the Australian Public Service Commission will develop training and best practice advice for Australian Public Service agencies and managers;
- workforce re-engagement through better and fairer assessments for Disability Support Pension;
- the creation of a new Employment Assistance Fund that will help more people with disability into jobs by funding innovative projects that remove barriers to employment; and
- an improved JobAccess website to increase awareness among employers of the services available to support both people with disability and mental illness⁵.

Other initiatives that will help deliver the Strategy objectives include:

- meeting the needs of school students with disability through the Government's education reform agenda;
- developing a National Disability Strategy to increase the social, economic and cultural participation of people with disability, to eliminate the discrimination they experience and to improve disability support services for families and carers; and
- implementing the Fourth National Mental Health Plan, which represents a renewed commitment by all health ministers to the continual improvement of Australia's mental health system

3.2 Disability Discrimination Act and Disability Standards

The Government has developed legislation that ensures the rights of people with disability in relation to education and training. Education providers, whether they are government or non-government, have obligations under the *Disability Discrimination Act 1992* (the Act) and the Disability Standards for Education 2005 (the Standards), which came into effect on 18 August 2005. The Standards have been developed through extensive consultation with education, training and disability stakeholders, as well as the involvement of the Human Rights and Equal Opportunity Commission (HREOC).

The Act makes it unlawful for an educational authority to discriminate against someone because that person has disability. This includes all public and private educational institutions, primary and secondary schools, and tertiary institutions. In this regard, the Standards clarify the obligations of education providers under the Act and the rights of people with disability in relation to education, while balancing the needs of students with the interests of all parties affected, including providers.

A key feature of the Standards is the concept of making "reasonable adjustments" that includes consideration of a number of elements including the views of the student or their associate and the costs and benefits of making the adjustment, with part 10 stating "the provider must comply with the Standards to the maximum extent not involving unjustifiable hardship".

The Guidelines that support the Standards confirm that compliance with the Standards is the responsibility of providers while enforcement is achieved through HREOC and the courts. For matters relating to human rights and the rights of people with disability, this is the independent complaints body.

The Federal Attorney General has a DRAFT Bill – Disability (Access to Premises — Buildings) Standards 2009, that is under the *Disability Discrimination Act 1992*. The Act will ensure that reasonably achievable, equitable and cost-effective access to buildings, and facilities and services within buildings, is provided for people with disability; and to give certainty to building certifiers, building developers and building managers that, if access to buildings is provided in accordance with these Standards, the provision of access, to the extent covered by these Standards, will not be unlawful under the Act. The Government referred the draft Premises Standards to the House of Representatives Standing Committee on Legal and Constitutional Affairs and asked the Committee to conduct consultations on the draft Premises Standards. The Committee reported to Parliament on

⁵ see www.jobaccess.gov.au/joac/home

15 June 2009. The Government is now considering the report.

3.3 United Nations - Convention on the Rights of Persons with Disabilities

The United Nations Convention on the Rights of Persons with Disabilities took more than two decades to reach fruition after the first call for development. Australia was heavily involved in the negotiation process.

Although the Convention does not create new rights, it specifically prohibits discrimination against people with disability in all areas of life.

On 30 March 2007, Australia signed the Convention as one of the original signatories. On 17 July 2008, Australia ratified the Convention in New York and it entered into force for Australia on 16 August 2008.

PART D: Workforce

4. Workforce participation and unemployment rates in Australia

4.1 Profile of people with disability

Data from the 2003 Survey on Disability, Ageing and Carers conducted by the ABS showed that people with disability have lower rates of labour force participation than people without disability. This report defines people with disability as per the ICF. This 2003 ABS survey is the most recent on this topic, with the next one currently in the field, and data expected in late 2010. It is noted that the methodology in assessing people with disability in this survey differs from that of the census that assesses people that require assistance with core activities.

4.1.1 Workforce participation and unemployment rates of people with disability

In 2003, just over half (53 per cent) of all people with disability participated in the labour force with the unemployment rate at 8.6 per cent, compared with four in five (81 per cent) people without disability and an unemployment rate of 5.0 per cent.

For people aged 15-64 years living in households, those with a profound level of core-activity limitation had a much lower labour force participation rate (15 per cent) than people without disability (81 per cent). People with disability who were employed were more likely to work part-time (37 per cent) than those who were employed and did not have disability (29 per cent).

In 2003, 58 per cent of working-age people with disability who were not in the labour force reported being permanently unable to work. The majority (52 per cent) of those permanently unable to work were aged 55 years or older. Some disability groups had higher rates of reported permanent incapacity for work than others. For example, 48 per cent of people with psychological disability reported being permanently unable to work, compared with 28 per cent of those with sensory disability.

The unemployment rate varied considerably between disability groups over this period. Groups with a relatively high rate of participation in the labour force (i.e. people with physical (48.3 per cent) and sensory or speech disability (53.5 per cent)) had comparatively low unemployment rates (7.4 per cent and 9.3 per cent respectively). Conversely, people with psychological disability had a low labour force participation rate (28 per cent) and a high unemployment rate (19 per cent).

Around one-third (34 per cent) of unemployed people with disability were long-term unemployed (i.e. had been unemployed for at least the previous 52 weeks). This was higher than for unemployed people without disability (23 per cent). For jobseekers likely to be looking for part-time work, there was only marginal difference between those with disability and those without disability (36 per cent compared with 34 per cent respectively).

In 2003, one in four people (24 per cent) aged 15-64 years with a profound or severe core activity limitation, who were living in households, had completed Year 12. This compares to 49 per cent of those without disability. People with a profound or severe core-activity limitation were less likely to have completed a diploma or higher qualification (14 per cent) than those without disability (28 per cent).

Of those people with a core-activity limitation, the more severe the limitation the higher the proportion with an unmet need for help. Of those with a profound limitation 50 per cent reported that their needs were only partly met or not met at all. This contrasts with 41 per cent for those with a severe limitation, 26 per cent for those with a moderate limitation and 16 per cent for those with a mild limitation who reported that their needs were partly met or not met at all.

4.1.2 Income support for people with disability

A Government pension or allowance was the main source of personal income for approximately 14 per cent of people aged 15 – 64 years and over living in households without disability and 43 per cent of those with disability. This proportion was significantly higher (74 per cent) for those with a profound core-activity limitation. Wages and salaries were the main source of income for 71 per cent without disability, 41 per cent with disability and 8 per cent with a profound core-activity limitation.

In May 2009, the average weekly gross wage across the private and public sector was \$923.40 (or \$1 846.80)⁶. This is in comparison to a single person on the Disability Support Pension (DSP) who receives a payment of \$615.80 per fortnight, and a single person with no children on Newstart Allowance (NSA) who receives \$456 per fortnight. Both DSP and NSA recipients may also receive additional fortnightly allowances depending on eligibility⁷.

⁶ from ABS Catalogue 6302.0

⁷ see www.centrelink.gov.au/internet/internet.nsf/payments/newstart_rates.htm

4.2 Workforce participation and unemployment rate of people from cultural and linguistic diversity backgrounds

The unemployment rates for people who migrate to Australia vary appreciably. Data consistently show recently-arrived migrants have a higher unemployment rate than those who have lived in Australia for some years. Several factors influence the unemployment rates of migrant and jobseekers with cultural and linguistic diverse backgrounds (CALD), including the period since arrival in Australia, skill level, age, English proficiency and recent and relevant work experience.

The Australian Labour Market Update⁸ (published quarterly) provides unemployment rates (original data) for people now resident in Australia who were born in selected overseas countries. In August 2009, people born in Greece and Italy had low unemployment rates (3.3 per cent and 3.5 per cent respectively), whereas unemployment rates for people born in Lebanon and Vietnam were relatively high (11.6 per cent and 11.3 per cent respectively).

4.2.1 Eligibility for income support for migrants⁹

The Australian income support system differs from those of most other developed countries, in that it is funded from general revenue, rather than from direct contributions by individuals and employers. Instead of reflecting the level and duration of contributions into a social insurance fund, Australian income support is based on residence and need.

In general, a person must be an "Australian resident", as defined in the *Social Security Act 1991*, to qualify for Australian social security payments. An Australian resident is a person who resides in Australia and has permission to remain permanently—either because they are: an Australian citizen; the holder of a permanent visa; or a protected Special Category visa holder. In deciding whether a person is residing in Australia, factors such as the person's domestic, financial and family ties to Australia are taken into account, as well as the frequency and duration of any absences from Australia and the reasons for such absences.

In addition to the requirement to be an Australian resident at the time of claiming, some social security payments (generally, the "pension" type payments which are intended as long-term support) require that a person has been an Australian resident for a certain period of time. For example, to qualify for Age Pension generally a person must have ten years residence in Australia. This residence requirement is called a "qualifying residence requirement" for social security purposes. These ten years can be made up of periods of residence at any time in a person's life, as long as at least one period is more than five continuous years. Other payments with prior residence requirements include Disability Support Pension (ten years), Parenting Payment (two years) and Widow Allowance (two years). The purpose of the long residence requirements for Age and Disability Support Pensions is to ensure that these payments for the long-term contingencies of life are only granted to people who have a genuine, long-term connection with Australia. This is necessary to protect Australian Government funds, which come from general revenue.

Some payments (generally, the "allowance" type payments which are intended as shorter-term income support) do not have prior residence requirements, but instead have a "newly arrived resident's waiting period". Technically, this means that a person may meet all the qualification criteria for the payment, but it may not be "payable" to them because of the waiting period. In practice, from the claimant's point of view, the effect of the prior two year residence requirements and of the newly arrived resident's waiting period requirement is effectively the same.

4.2.2 Newly Arrived Residents Waiting Period (NARWP)

A NARWP applies to people who have not been Australian residents and in Australia for a period of, or periods totalling, 104 weeks (ie two years). Periods spent in Australia, as an Australian permanent resident, at any time in a person's life can be counted towards the waiting period.

Payments with a newly arrived resident's waiting period include Newstart Allowance, Mature Age Allowance, Partner Allowance, Youth Allowance and Austudy Payment, Sickness Allowance, Carer Payment and Special Benefit. The waiting period also applies to the Health Care Card, the Commonwealth Seniors Health Care Card and Mobility Allowance.

There is no waiting period for family payments. These payments are available to all Australian residents (and holders of special category visas and prescribed temporary visas, as described above), if they have children in their care and meet the relevant income tests.

⁸ see www.workplace.gov.au/workplace/Individual/Migrant/AustralianLabourMarketUpdate.htm

⁹ From consultation with FaCHSIA

PART E: Employment

5. DEEWR employment services

5.1 Job Services Australia

Job Services Australia was introduced on 1 July 2009 and provides support for all job seekers through streamlined services that provide increased flexibility and access to support and services that are relevant to their individual circumstances. Job Services Australia focuses on the needs of the most disadvantaged job seekers and aims to achieve greater social inclusion.

Job seekers who enter Australia as part of the skilled migration or family reunion programs are usually subject to a two year waiting period before being fully eligible for Job Services Australia. They are eligible for Stream 1 (Limited) services.

Humanitarian entrants are eligible for the full range of Job Services Australia assistance from the date of their arrival in Australia. They have an initial 13 week exemption from activity test requirements. During this period they are not required to engage in employment services, but they can volunteer.

Eligible job seekers are referred to one of four streams of Job Services Australia. The job seekers who are the most ready for employment are referred to Stream 1, those with moderate or significant barriers are referred to Streams 2 and 3 and those with the most severe barriers are referred to Stream 4.

A job seeker's eligibility for Stream services is first assessed through the Job Seeker Classification Instrument (JSCI) by Centrelink. Where the JSCI shows that a job seeker has multiple and significant barriers they are referred for a comprehensive Job Capacity Assessment (JCA). All job seekers who state that they have arrived in Australia as a refugee within the last five years are referred for a JCA. This independent assessment examines the job seeker's circumstances in detail and, where appropriate to their needs, results in referral to Job Services Australia Stream 4. People with disability requiring specialist program assistance are currently referred to Disability Employment Network (DEN) or Vocational Rehabilitation Services (VRS) (see below).

There are more than 2,100 JSA sites across Australia. While all JSA providers are able to assist all job seekers, there are many JSA sites that specialise in delivering services for defined groups of job seekers, such as those from a CALD background, and to people with disability. There are seven CALD specialist providers delivering services from 28 sites and 19 disability specialist providers delivering services from 134 sites.

5.2 The move to Disability Employment Services

The current contract and funding deeds for DEN and VRS expire on 28 February 2010. The Government will invest \$1.2billion over the period from 1 March 2010 to 30 June 2012 to deliver new Disability Employment Services designed to increase employment participation of people with disability.

The new Disability Employment Services will be demand driven. All eligible people with disability will have access to individually tailored services to help them get and maintain a job. The new Disability Employment Services also include new flexible options for ongoing support in the workplace. This ongoing support will provide a safety net for participants who have been placed into work, but whose support needs are likely to be irregular or less predictable

5.2.1 Disability Employment Network

DEN provides specialist assistance to job seekers with disability who require ongoing support to find and maintain employment. A job seeker is eligible for DEN if they:

- have a permanent (or likely to be permanent) disability; and
- have a reduced capacity for communication, learning or mobility; and
- require support for more than six months after placement in employment.

In addition to these criteria, a participant may require specialist assistance to build capacity in order to meet participation requirements.

There are two streams of DEN and the assessment of future work capacity will dictate which stream the jobseeker is allocated. During 2008-09, DEN capped stream provided employment assistance to approximately 60 600 clients and DEN demand-driven (uncapped) stream assisted approximately 27 100 clients.

DEN providers are paid fees based on services provided to job seekers and employment outcomes achieved. The appropriation for 2008-09 was \$334.24m.

5.2.2 Vocational Rehabilitation Services

VRS provide a comprehensive intervention, combining vocational rehabilitation with employment assistance. VRS assists people who have an injury, disability or health condition to work independently in the open labour market.

The aims of the VRS program are to:

- enable job seekers with an injury, disability or health condition achieve sustainable employment to their maximum capacity;
- promote the capacity of people with injuries or disabilities, leading to improved employment opportunities; and
- encourage innovation and continuous improvement in the provision of employment services.

VRS providers are paid fees based on services provided to job seekers and employment outcomes achieved. VRS assisted approximately 79 000 clients in 2008-09, including approximately 38 000 new commencements, with 32.1 per cent in employment three months after participation in VRS. The appropriation in 2008-09 was \$266.02m.

5.2.3 Other

It is noted that Centrelink provide a quarterly publication for people from CALD and non-English speaking backgrounds. The Autumn 2009 edition of *The Journey* includes an article on mobility assistance for those with disability.

Legislation also provides for 510 hours of English language tuition to migrants that are considered under the functional level of English.

PART F: Education

6. Education Programs and Services

Schools in Australia are operated by state and territory governments or non-government education authorities.

The Government provides funding to government and non-government schools as part of a funding partnership involving state and territory governments and parent communities. Under current funding arrangements, government schools are primarily resourced by state and territory governments with the Government providing supplementary funding. The Government is the primary source of public funding to non-government schools.

6.1 Profile of students at schools

The Government has an inclusive policy in relation to students at school. This policy encourages the integration of students with disability into mainstream education. According to the Report on Government Services 2009, in 2007 there were a total of 150 483 funded students with disability in Australian Schools, which is 4.4 per cent of the entire school population.

6.2 Australian Government funding for government schools

Australian Government funding for government schools is now being provided through a new Intergovernmental Agreement (IGA) on Federal Financial Relations agreed in the Council of Australian Governments (COAG) forum. The IGA was accompanied by a rationalisation of the number of payments to the States for Specific Purpose Payments and the creation of associated national agreements. The National Education Agreement (NEA), which came into effect on 1 January 2009, contains agreed objectives, outcomes, outputs and performance indicators, and clarifies the roles and responsibilities that will guide the Commonwealth and the States in the delivery of school education services. The NEA provides the States with increased flexibility in determining how education services should best be delivered and provides an improved focus on the accountability and transparency of all schools for students' outcomes.

All states and territories and the Commonwealth, as parties to the NEA, have agreed to the following reform directions as priority areas for effort in the near term:

- attract, train, place, develop and retain quality teachers and school leaders and support schools working with their community;
- implement a national curriculum;
- transparent and strengthened accountability to improve student and school performance, including through national reporting on individual schools and the improved collection of, and access to, nationally consistent data and information required to support the agreed outcomes;
- raise parental and community expectations of educational outcomes;
- support teaching and learning in schools through appropriate infrastructure;
- review funding and regulation across government and non-government school sectors;
- providing support to students with additional need; and
- 'closing the gap' in educational outcomes between Indigenous and non-Indigenous students.

Effective from 2009, Australian Government funding for targeted programs in government schools, including the Literacy, Numeracy and Special Learning Needs Program (LNSLN) Program and the English as a Second Language – New Arrivals (ESL-NA) Program, was consolidated within the NEA. The new funding arrangements not only allow state and territory governments to allocate Commonwealth funding to areas which they believe will produce the best outcomes for students but also reduces Government input controls on service delivery (such as eligibility criteria for ESL-NA funding) by the states and territories.

The NEA's statement of objectives and outcomes includes performance indicators and performance benchmarks. All Australian governments (State, Territory and Commonwealth) have agreed to a performance reporting framework that includes the collection and publication of student and school data to meet public accountability requirements and to provide the evidence base for future national education policy reforms. This reflects the governments' commitment to raising the educational attainment of all Australian students and reducing the effect on their performance of sources of disadvantage, such as socioeconomic background, Indigenous status, language background, refugee or humanitarian status, and geographic location. In order to meet the mutually agreed outcomes within the NEA, supporting performance benchmarks will be monitored, assessed and reported publicly on an annual basis by the independent COAG Reform Council.

The NEA also includes a commitment to report on the number of students who are provided with additional support, specifically students with disability and students from non-English speaking backgrounds (including newly arrived migrants and refugees), disaggregated by sector.

6.3 Australian Government funding for non-government schools

The *Schools Assistance Act 2008* provides the legislative framework for Commonwealth funding for non-government schools for 2009-2012 and prescribes the general conditions on which financial assistance is paid, including transparency and accountability requirements consistent with those for government schools under the NEA.

Commonwealth funding for non-government schools provides for recurrent and capital funding as well as targeted programs. Targeted programs include the Literacy, Numeracy and Special Learning Needs Program (LNSLN) which assists the most disadvantaged students, including students with disabilities; and the English as a Second Language – New Arrivals Program, which assists newly arrived students of language background other than English.

6.3.1 Literacy, Numeracy and Special Learning Needs (LNSLN) Program

The LNSLN Program assists non-government education authorities to improve the learning outcomes of educationally disadvantaged students, including students with disabilities, particularly in literacy and numeracy, by contributing funding for additional teaching and learning assistance. LNSLN funding is, however, only one source of funding available to non-government schools to meet the needs of educationally disadvantaged students.

Funding is targeted at the most educationally disadvantaged school students, including special school students, from Preparatory year (or equivalent) to Year 12 who may face barriers to effective participation at school and who:

- are not achieving or are at risk of not achieving a national minimal standard of literacy and/or numeracy or other appropriate standard of achievement; and/or
- require additional assistance to reach an appropriate standard of achievement.

Educational disadvantage may be associated with a range of factors such as a disability or learning difficulty, a language background other than English, Aboriginal or Torres Strait Islander background, low socio-economic background or geographical isolation.

LNSLN funding consists of two components:

- Schools grants component; and
- Students with disabilities component.

As there is no agreed national definition that would cover all students with special needs, the mechanism for allocating funds to non-government school education authorities is intended to provide levels of support commensurate with the sector's size and other indicators of need where these are available and suitable to use on a national basis. Funding allocations to non-government school education authorities are determined using a composite allocative mechanism based on socio-economic disadvantage, language background other than English, enrolment share and number of students with a disability.

Approximately 8 per cent of LNSLN funding is per capita payment for students with disabilities. An eligible student is one who is in a non-government school and who has been assessed by a person with relevant qualifications as having intellectual, sensory, physical, social/emotional or multiple impairments to a degree that satisfies the criteria for enrolment in special education services or programs provided by the state or territory in which the school or centre is located. (A student whose only impairment is a specific learning difficulty or for whom remedial education or remedial support is appropriate is not an eligible enrolment for the purposes of calculating per capita funding).

At the beginning of each year, the Commonwealth provides Catholic and independent education authorities with details of the number of eligible students with disabilities in each school in their sector to enable the authorities to provide the correct student with disabilities amount to each school in their sector.

In addition to the student with disabilities amount, school authorities have the flexibility to use the broad banded pool of funds provided under LNSLN funding to determine the total level of assistance appropriate for a school in the context of needs across the system or sector.

6.3.2 English as a Second Language – New Arrivals (ESL-NA) Program

The English as a Second Language - New Arrivals (ESL-NA) Program provides Government funding to non-government education authorities to assist with the cost of delivering intensive English language tuition to eligible newly arrived migrant primary and secondary school students. The Program aims to improve the educational opportunities and outcomes of students who have recently arrived in Australia, whose first language is not English and whose proficiency in the English language is determined, at the local level, to require intensive assistance to enable them to participate fully in mainstream classroom activities.

DIAC sets Australia's immigration policies which determine entry to and conditions of, residence in Australia, including the issuing of visas. Students who do not meet the ESL-NA Program eligibility criteria or do not hold visas from the recommended

visa subclass categories do not attract ESL-NA Program funding but may be included in programs/classes organised for eligible students.

Eligible students are expected to receive a minimum amount of intensive English language tuition, that is:

- a minimum of 6 months for new arrivals; or
- a minimum of 12 months for humanitarian new arrivals.

Intensive English language tuition may be provided in intensive language centres/units or in schools. Where tuition is provided in schools, it is expected that students be provided with a minimum of ten hours of ESL assistance per week. The amount and duration of assistance to be provided for individual students is a matter for education authorities to determine.

The Government provides per capita funding to education authorities in respect of each eligible student, using two rates of funding:

- \$5 786 per eligible new arrival; and
- \$11 572 per eligible humanitarian new arrival.¹⁰

The funding provided is a once-only payment for each eligible student and is paid to the education authority responsible for the provision of the student's initial course of intensive English instruction. Education authorities lodge claims for funding with DEEWR twice a year. They are also required to provide DEEWR with details of the number of eligible students, including Australian citizens and other residents by visa subclasses (permanent and temporary). In order to meet educational accountability requirements, education authorities also provide DEEWR with information on the assessment tools used to assess English language proficiency including:

- the level of proficiency to access the intensive language training program; and
- the level of proficiency to exit the intensive language training program.

While access is provided, it is noted that those arriving on temporary visas may be required to pay full school fees (even at government schools) and that each individual school has different conditions regarding this.

6.4 Other education services for students with disability

The new federal financial framework also provides for an additional form of payment – known as National Partnership payments – to fund specific projects related to nationally significant reforms. The new funding arrangements represent a substantial increase in the Government's investment in government school education compared with that of the previous government and a major commitment to reducing the effect on students' educational attainment of various sources of disadvantage.

6.4.1 Special Schools

Special schools are those that provide education under programs designed specifically for children with disability. Special schools receive funding from other sources, including funding provided by state and territory governments and, in the case of non-government schools, fees paid by parents, income from investments and donations, bequests and so on. Government funding for schools is not intended to meet the full cost of providing services for students with disability in schools.

The Government does not collect specific information on fees paid by parents. However, we do know that some schools do require fees and that fees vary widely. The Government does not collect specific details on programs conducted by schools as State and Territory education authorities and non government education authorities manage the day-to-day operation of their schools.

6.4.2 Higher Education Disability Support Program

The Australian Government provides funding through the Higher Education Disability Support Program (DSP) to assist in removing barriers to access of higher education for students with a disability. Eligible higher education providers may use the funding to provide educational support and equipment for students with a disability and to undertake activities to attract and support those students as they participate in higher education. Program funding is available to eligible higher education providers to support students who are domestic students (as defined by the *Higher Education Support Act 2003*).

6.4.3 Smarter Schools National Partnerships

Students with disability will directly benefit from the Smarter Schools National Partnership Agreements on Literacy and Numeracy, Improving Teacher Quality and Low Socio-economic Status (SES) Communities. These National Partnerships target

¹⁰ see www.deewr.gov.au/Schooling/Programs/EnglishasaSecondLanguageNewArrivalsProgram/Pages/Arrangements2009.aspx

disadvantaged students including students with disability. The Low SES Communities National Partnership particularly addresses the needs of students with disability.

The State and Territory Implementation Plans developed to support the implementation of the National Partnerships include activities which will lead to improved long term student engagement. They provide access to multiple services to assist students and include schools having greater involvement with parents and community organisations in order to improve educational outcomes for all students.

As part of the reporting for the National Partnerships, jurisdictions will track outcomes, including the participation in national testing by students with disability.

6.5 Participation in national assessments

The National Assessment Program – Literacy and Numeracy (NAPLAN) results are reported nationally through Summary and National Reports, released in September and December respectively. The first report contains summary results of the tests while the final report contains information derived from more complex analyses, including data on student performance disaggregated by the agreed student background characteristics.

In the final report for the 2008 NAPLAN tests, students identified as Language Background Other Than English (LBOTE) made up 20 per cent of participating students. Students may qualify for exemption from NAPLAN testing because of their lack of proficiency in the English language or because of significant intellectual and/or functional disability. Students with a language background other than English, who arrived from overseas less than a year before the test, may be treated as exempt from testing. In 2008, the proportion of exempt students varied between 1 to 3 per cent of the LBOTE population.

Students with disability are encouraged to participate in NAPLAN testing. The National Protocols for Test Administration set out special provisions for allowing students with disability access to NAPLAN. The publication notes the obligations of school education providers under the Disability Discrimination Act 1992 and the rights of students with disabilities set out in the Disability Standards for Education. The education providers' obligations include an obligation to make reasonable adjustments (accommodations), where necessary, to ensure the maximum participation of students with disabilities in education and training activities, including access to NAPLAN. Consistent with this functional approach, reasonable adjustments or accommodations are provided to students with disabilities or special needs through a range of special provisions, examples of which are included in test administration handbooks. Test administration authorities are required to comply with a consistent approach to student access to special provision across all states and territories.

Reporting of student and school performance includes the reporting of the relevant data disaggregated by nationally agreed student background characteristics. NAPLAN and other National Assessment Program (NAP) assessment data are reported by the following characteristics: sex, Indigenous status, socio-economic background, language background and geographic location. Definitions of, and technical specifications for the collection of data on, these characteristics for the purpose of reporting on student achievement and school performance are those agreed by the Ministerial Council for Education, Early Childhood Development and Youth Affairs (MCEECDYA) and published in the MCEECDYA *Data Standards Manual – Student Background Characteristics* for the relevant school year.

6.6 Development of improved measure of student' LBOTE status

To date, in the reporting of the results of NAPLAN tests, and of the sample assessments in science, civics and citizenship, and ICT, LBOTE students have been identified using a very broad measure of LBOTE which only distinguishes between students with or without a language background other than English. This has resulted in the grouping of those LBOTE students who are relatively disadvantaged with those who are not, and has concealed the significant diversity in the educational outcomes of the LBOTE student population.

Ministers have directed the MCEECDYA Performance Measurement and Reporting Taskforce to develop a measure of LBOTE that better identifies students whose language background has a measurable effect on their outcomes.

The improved LBOTE measure will enable all governments to explore reforms and policy actions that best focus on ensuring that all students with additional needs have the support they require to engage in and benefit from schooling, including newly arrived migrants and refugees.

6.7 Establishment of new Australian Curriculum, Assessment and Reporting Authority

A new independent statutory authority, the Australian Curriculum, Assessment and Reporting Authority (ACARA) was established in 2008 to develop and administer a national school curriculum and national assessments, and to collect, analyse and publish student assessment data and other data relating to schools and comparative school performance.

COAG has agreed that ACARA will be provided with the information necessary to enable it to publish relevant, nationally comparable information on all schools to support accountability, school evaluation, collaborative policy development and resource allocation. ACARA will provide the public with information on each school in Australia. This will include data on the school's performance, including national testing results, as well as contextual information on the characteristics of its student population (for example, proportions of students from linguistically and culturally diverse backgrounds), school attendance rates and the school's capacity, including the numbers and qualifications of its teaching staff. The publication of this information will allow comparison of 'like schools' (that is, schools with similar student populations) across the nation and comparison of a school with other schools in their local community.

There will be a transition of a number of MCEECDYA's functions to ACARA. These include managing and overseeing the delivery of tests for the NAPLAN tests and the triennial sample assessments in science literacy, civics and citizenship, and ICT literacy – as well as associated tasks, including the collection and reporting of student achievement by relevant student background characteristics.

6.8 Australian Apprenticeships

The Australian Apprenticeships Incentives Program provides financial incentives to eligible employers who employ Australian Apprentices, as well as a number of initiatives that provide financial support to Australian Apprentices to ease the financial difficulties Australian Apprentices experience in the early years of their Australian Apprenticeship, particularly in trades experiencing a skills shortage.

Additional support is provided to Australian Apprentices with a disability to help them reach their full potential as skilled workers. Measures to support Australian Apprentices with a disability and their employers include the Disabled Australian Apprentice Wage Support, which pays an employer \$104.30 a week¹¹ for a full-time Australian Apprentice. Also available under the program are tutorial, interpreter and mentor services where the Australian Apprentice is experiencing difficulty with the off-the-job training component of their Australian Apprenticeship, payable to the Registered Training Organisation in respect of an eligible Australian Apprentice with a disability to provide specific assistance related to off-the-job training.

Eligibility for payments under the Australian Apprenticeships Incentives Program, including support for disabled Australian Apprentices, is limited to Australian citizens, foreign nationals with permanent residency status or New Zealand passport holders who have been resident in Australia for at least six months.

¹¹ see www.australianapprenticeships.gov.au/documents/publications/2009/03Disability.pdf