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National Disability Strategy Implementation Reference Group

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Australian Education Bill 2012

Dear Committee Secretary

Please find attached the written submission by the National Disability Strategy Implementation Reference Group (NDSIRG) on the Australian Education Bill 2012 addressing issues of importance to the NDSIRG.

We thank you for granting an extension to NDSIRG on this submission.

NDSIRG believes it is imperative that the systemic improvements to education required by students with disability be placed at the centre of education reform in Australia.

It is NDSIRG's view that the framework is as much about the inclusion of students with a diverse range of individual needs into the education system. Investment in systemic improvements which improve school capacity and infrastructure, as well as resourcing individual students, are key factors to such inclusion.



NDSIRG also believes that the measures regarding accountability and transparency in these reforms need to capture both school practices and systemic resourcing in addition to student attributes or performance.

We would be happy to discuss the contents of this submission with you further.

Yours sincerely

Ms Lesley Hall
Co-Chair
22 February 2012

Dr Rhonda Galbally AO
Co-Chair



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National Disability Strategy

Implementation Reference Group

Australian Education Bill 2012

SUBMISSION BY THE NATIONAL DISABILITY STRATEGY IMPLEMENTATION REFERENCE GROUP

INTRODUCTION

The United Nations Convention on the Rights of Persons with Disabilities 2008 (the Convention) aims to enhance opportunities for people with disability to participate in all aspects of social and political life including access to employment, education, health care, information, justice, public transport and the built environment. The National Disability Strategy (NDS) is a 10 year policy framework to ensure that the principles underpinning the Convention are upheld.

The Australian Government has established the National Disability Strategy Implementation Reference Group comprising of representatives from the National People with Disabilities and Carer Council (NPWDACC) as well as representatives from the National Disability Organisations to provide the Australian Government with advice on the implementation of the National Disability Strategy.

Education reform is integral to delivering on one of the NDS agreed key objectives of 'Learning and Skills' – namely to *Focus on reducing the disparity in educational outcomes for people with disability and others. (NDS Summary Booklet p10 - Learning and Skills policy direction)*

And to create:

An inclusive education system responsive to all abilities and learning styles will benefit all Australians, not simply those with disability. We need to make sure that the educational outcomes of people with disability catch up to those for people without disability, and ensure people with disability have every opportunity to reach their full potential. (NDS, Summary Booklet p10)

Both the NPWDACC and the national disability organisations have followed the reform program in education for students with disability closely in recent years and are pleased that the Australian Education Bill (the Bill) has been introduced.

This submission makes general and specific comments about the provisions of the Bill, and is informed by the NPWDACC's submissions to the Review of Funding for Schooling in 2011.

NPWDACC made detailed submissions to the Review of Funding for Schooling (Attachments A and B), and we recommend that this brief submission be read in conjunction with those submissions to provide the right context for our comments.

General Comments

NDSIRG acknowledges the Bill sets out a framework for education reform that is underway. NDSIRG recognises that the first reading of the Bill lays out principles at a high level and that as future negotiations with state and territory governments and the Australian community take place the legislation will be developed with more detail.

NDSIRG welcomes the Bill's focus of making multidimensional improvements to Australia's education system, with a priority given to greater equity.

It is imperative that the ongoing detailed negotiations place the reforms required by students with disability at the centre of the agenda, and focus on the important systemic improvements that are required in this area.

While the proposed funding system places students with disability in a category of disadvantage that aims to deliver improved support funding, it is critical that the new funding system does more than simply deliver a better funded version of the bifurcated and deficient funding system that currently exists for students with disability. This approach cannot effectively overcome the systemic barriers that are entrenched across education systems. The new funding model needs to address these barriers directly with state, territory and non-government systems as a core element of the reform.

Throughout the Bill there is inconsistency in references to school students. Some clauses use the term 'all school students' and others refer just to 'school students'. The NDSIRG recommends that all these references include the word 'all' to reflect the notion of equity throughout the Bill.

Fundamentally the NDSIRG agrees with the intent of the Bill to address significant disadvantage which characterizes our present education system.

Preamble

The Preamble needs to reflect that:

The capacity of the general education system needs to be enhanced for students with disability as well as individual needs of children and young people.

The National Disability Strategy states one of the required policy directions to improve learning and skills for people with a disability is to:

Strengthen the capacity of all education providers to deliver inclusive, high quality educational programs for people with all abilities from early childhood to adulthood.

Schools are places that make a major contribution to the learning and development of children and young people, academically, socially and emotionally. The NDSIRG notes that there are viable vocational and civic options that can be fulfilled by young people who do not attain high academic scores, and it is important that it is acknowledged that these are real roles for schools to incorporate in their operations.

This Bill recognises Australia's obligations under relevant treaties, in particular the United Nations Convention on the Rights of Persons with Disabilities and the United Nations Convention on the Rights of the Child. These conventions contain important principles that need to guide the development of specific funding mechanisms in regard to students with disability.

While the Bill is focused on schools, there are parts of the education system which are not part of traditional schools that are important to be properly resourced and subject to the principles and objectives of the Bill and the reform more generally. These include schooling provided in hospitals, detention centres, home schooling and distance education. A significant number of students with disability are not in regular schools because of the incapacity of mainstream and specialist schools to meet their needs.

Consider revising line 4 in paragraph 2 on page 2 to:

...highly skilled, successful and ***inclusive*** workforce.

Part 1

3. Objects of the Act:

Under (b) ii, consideration should be given to adding 'inclusive' to this sentence to reflect that the framework is as much about including students with a diverse range of individual needs and disadvantage fully into the education system.

The definitions section needs to define *excellence* and *equitable*. It is important to ensure that these terms do not default practically to excellence only in academic terms, and equitable means more than simple participation. Our current education system and support programs for students with disability focus on participation as the key goal and not systemic pursuit of comprehensive outcomes. Central to the operationalising of equity is the provision of accessible environments.

NDSIRG believes that excellence and equity in education need to be conceived as the fulfilment of personal potential and individual learning capacities, and not simply limited to participation and raw academic scores.

4 Definitions

The legislation would be strengthened by the addition of definitions for:

- School education – the period between prep and year 12 education
- Equity – refers to equal opportunities for participation and learning in all areas of education
- Excellence – this needs a clear working definition that ensures that ALL students can be challenged, extended and enriched by the process of education in Australian schools.

Part 2

Section 7: Reform Directions for the National Plan

This section outlines the reform direction for the National Plan for School Improvement. It is imperative that the reform directions align to the Disability Standards for Education 2005 to provide the quality and resourcing guidelines to implement funding changes.

Quality Teaching

Consistent with the NDSIRG's recommendation to frame the Bill to enable the necessary systemic capacity building, 7(1) *Quality Teaching* needs to state that teachers need resources in addition to skills and support. It is essential that the need for systemic resources is recognised as part of the push to support quality teaching. This means that teachers not only have professional development pathways, but have ready access to secondary and tertiary consultants in the development and implementation of individual learning plans for students with disability. This in turn enables the inclusion of all students and is consistent with the Disability Standards for Education 2005.

Quality Learning

This section is self explanatory but could be enhanced with a statement regarding the capacity of Australian schools to take an individualised approach to the varying learning styles of students consistent with the Disability Standards for Education 2005.

Empowered School Leadership

This section requires a reference to educational experiences and not just outcomes. School leadership is a key factor in successful inclusion of students with disability, and the creation of an inclusive school culture is a key responsibility school leaders have. This must be reflected strongly in the Bill.

In highlighting value in empowering school leadership to be autonomous, it is incumbent on the Bill to frame this with reference to key obligations such as the National Disability Strategy, and the Disability Standards for Education 2005.

Transparency and Accountability

This section requires strengthening to ensure that schools and systems are accountable for the obligations of their funding.

The measures proposed in section 4(a) are all about the student performance and presentation and not the school or system. The measures listed are insufficient to be able to effectively measure school performance. The use of the term 'well-being' is problematic in reference to students with disability, as student well-being is often based on the system view of what is safe rather than what students and their families define as well-being. There has been demonstrated experience of students with disability so called well-being prioritised above their educational attainment that has contributed to the disparity in educational outcomes across the board.

Behaviour and attendance can also be problematic for students with disability – often being solely blamed on the student with ‘difficulty’ created by their disability. In many cases, this group is seen as being a challenge to schools, rather than part of their key roles. NDSIRG is concerned that fundamental misunderstandings by school leaders and teachers about the needs of individual students are the cause of negative experiences of school for students with disability.

The consultations for the *Shut Out*¹ report provided many examples where schools would misinterpret behaviours and actively discourage students with disability from attending school. Given that this section is on accountability and transparency of schools, then the measures need to capture school practices and systemic resourcing, rather than student attributes, as there is a real danger of systemic misinterpretation and ‘blaming the victim’ for poor outcomes. Measures also need to include a requirement to seek parent and student input, to avoid exclusion due to ‘at-risk behaviour’ and recognition of ‘risk behaviour’ as being due to lack of timely, targeted supports to mitigate or prevent the behaviour.

All schools are required to manage a range of issues presented by the diverse enrolment of students. These include the identified areas of disadvantage, but also include episodes of mental and physical illness, students who have caring responsibilities and students with family and social difficulties that may include protective issues. How they do this for all students needs to be part of the accountability framework. What needs to be prevented is the marginalising of students that create challenges to schools. This is also relevant to specialist schools that despite having particular types of students, should have the same requirement to maintain individualised programs with highly skilled provision.

In 4(b) there is a sense in the wording of this section that accountability to the community is about the performance of students. This is insufficient. Schools and systems need to be accountable for their practices and decisions and their ability to provide accessible, inclusive, non-discriminatory and quality educational programs. There are many areas of systemic accountabilities that need to be addressed in addition to the performance of students.

NDSIRG agrees that there is a need to improve data collection for both accountability and future planning. Data should not be limited to individual performance – in the context of this Bill and the overall reforms, data must also be collected about the performance of systems and schools in adapting their practices to the needs of students from the identified disadvantaged groups. As we are in a period of reform and transition, it will be important to measure and report on the systemic removal of educational barriers (such as physical access, technology, teacher skills, poor inclusive practice and leadership capacity).

¹ Shut Out: The Experience of People with Disabilities and their Families in Australia, National People with Disabilities and Carer Council 2009.

Meeting student need

NDSIRG supports the addressing of barriers to learning and wellbeing in this section - particularly in the light of Article 24 of the UN Convention of the Rights of Persons with Disabilities and the obligations for inclusion of children with disability in the general education system. A critical element of meeting student need and wellbeing across components of education is having an inclusive and welcoming school culture in addition to quality educational provision. As stated elsewhere, meeting student need is done through both the skilled capacity of the school and the system as well as an individualised approach. Meeting student need in this context should be holistic and must not result in the marginalising of a student because they are different.

Schools can also build inclusion into their operational structures and educational program. One example of this that is highly effective for deaf students is the adoption of a bilingual program (English and Auslan) into the whole school program in a mainstream school. Access to appropriate modes and means of communication in educational environments that maximise academic and social development (mainstream schools) is an obligation in Article 24. Such an approach as a bilingual program is a way of delivering good educational outcomes for all students and inclusion through design – and can be contrasted with the piecemeal approach of focusing on a deficit model for each student with disability.

Section 9: School Funding

To achieve the key goals of the education reform the funding system must address the systemic barriers for students with disability that are entrenched across education systems as a central expectation, and not rely solely on loadings to address the equity and excellence issues. Funding reform requires addressing the key barriers at a systems level in addition to the individual student level. There needs to be investment in improving school capacity and infrastructure as well as resourcing individual students in order for students with disability to be fully included.

Addressing the disadvantage identified in (c) requires resourcing through the base amount identified in (b).

The NDSIRG strongly recommends that sections (b) and (c) be reworded to reflect that the base funding will provide capability to make systemic improvements to the capacity of schools to include students with disability. This would enable the individual support provided through specific loadings to be well used and enable the design and delivery of comprehensive education programs, ensure capable and competent teachers and school leaders.

These two funding streams, base funding and specific loadings, need to be closely linked. The risk in separating these funding streams is that it prevents the improvements required to deliver both excellence and equity being made a core expectation of the reform.

The school funding model needs to be capable of resourcing schools to be fully compliant with the Disability Standards for Education 2005 as a minimum position. If schools and education systems are to be required to submit plans for school improvement, then specific detail about actions to get to this position must be required for additional funding to flow. Currently across many systems, accountability is particularly thin for funding and provision for students with disability, and this must improve.

Implementation of these school improvement plans also needs to be underpinned by strong accountability measures to ensure that funding is used for the purposes proposed and approved. The accountability measures must include qualitative feedback from students and parents.

Funding for specialist schools

Among the more general disability recommendations in the Review of Funding for Schooling (Gonski) report there was a specific recommendation that non-government specialist schools be fully publically funded. NDSIRG has previously identified the need for a separate piece of work to be undertaken to clearly define the funding model for specialist schools, including clear requirements for educational provision, structural relationships with mainstream schools and pathways to post school options.

NDSIRG recognises there is great diversity in the types and programs offered by specialist schools. The goals of the Bill must be relevant to specialist schools, and students and their families should expect excellence in those schools should it be their choice to enrol in these schools. NDSIRG is aware from the national consultations for the *Shut Out* report that information and provision in these schools is also variable.

Conclusion

NDSIRG is aware of a range of reform initiatives underway targeting improvements for students with disability. The Nationally Consistent Data Collection, the response to the Review of the Disability Standards for Education 2005 as well as the More Support for Students with Disabilities National Partnerships (MSSD).

We believe strongly that the momentum that the Australian Government has created in this area cannot be allowed to diminish. The positive systemic improvements in the MSSD (such as teacher training, improving access to technology, training for school staff in curriculum adaptation and the development of specialist hubs) must continue in the short term and be built into the funding model for the long term to ensure capacity. While the MSSD has brought a focus to some much needed improvements, work in these areas is not something that can be done in a two-year period, but needs to be a permanent feature of the system.