

The Secretary,
Senate Employment, Workplace Relations and Education References Committee
Suite S1.61, Parliament House
Canberra, ACT 2600

Senate Inquiry into the Education of Students with Disabilities

This submission has been prepared by Centrelink Youth and Student Community Segment in National Support Office, Canberra. The Policy Manager, Greg Featherstone, has approved this written submission to be used during the Senate Inquiry. No details provided in this submission are confidential and all details can be released to the committee.

Centrelink would like to see students with substantial disabilities be able to study 25% of the normal full time load of a course and still be considered fulltime students under Youth Allowance legislation. A person with fulltime student status obtains a number of benefits including:

- access to a higher income free area for the Youth Allowance income test
- access to student income bank
- access to Student Financial Supplement Loan
- fares allowance.

Reinstatement of the 25% workload concession for students with substantial disabilities

Legislation:

Currently legislation prevents students with substantial disabilities being able to study less than 75% of the normal full-time load of a course and be considered a full-time student (see appendix 1.1).

The 25% workload concession currently exists for students with substantial disabilities 25 years of age or over claiming Austudy payment (see appendix 1.2) and also for students receiving Pensioner Education Supplement payments (see appendix 1.4).

The 25% workload concession for students previously existed before the introduction of Youth Allowance on 1/7/98 (see appendix 1.3).

In order to be classed as a full-time student a student must complete their course in an allowable period of time. This period of time is the normal length of time it takes to complete the course plus an additional period of six or twelve months (see appendix 1.5).

Issues:

The 25% concession has been available to students for many years until Youth Allowance was introduced on 1/7/98. The lack of the 25% concession in relation to Youth Allowance customers is regarded as a drafting error. Prior to the introduction of Youth Allowance on 1/7/98 the concession was available to students of all ages. On 1/7/98 Youth Allowance replaced Austudy for students aged under 25 years of age. The 25% concession for students

over 25 years of age under the new Austudy payment remained. However the 25% concession was no longer available for students receiving Youth Allowance payment. The 25% workload concession is also available under ABSTUDY and PES.

Students with substantial disabilities often cannot successfully undertake 75% of the normal full-time load of a course. If the students enroll in less than 75% of the normal full-time load they are not considered to be students under the Youth Allowance legislation. This has the effect of the students not having access to the higher income free threshold, fares allowance, the \$6000 Income Bank or the Financial Supplement Loan programme that other students do have access to. As the young person is not considered a full time student under legislation the student must change over to Newstart Allowance once they turn 21.

Blind people and deaf people have difficulty in accessing information and this results in them requiring longer periods of time to access information and complete courses.

It is possible for a young person with substantial disabilities to have study included as part of a Preparing For Work Agreement but this means the student is considered a jobseeker and does not receive the extra student benefits as outlined in the paragraph above.

Centrelink considers the lack of this workload concession in the legislation to be an important access and equity issue in terms of both disability and age.

It is widely recognised that people with substantial disabilities find it very difficult to obtain employment. It is also widely recognised that attainment of skills and qualifications are the best method for a person with substantial disabilities to “break the cycle” of unemployment. Attainment of a degree or other similar qualification is an important pathway by which people with substantial disabilities can become self-sufficient and independent of Centrelink payments.

Reinstatement of the 25% workload concession supports “Australians Working Together” and would show the government as responding to people with disabilities.

Customers with substantial disabilities have the option of applying for the Disability Support Pension and claiming the Pensioner Education Supplement. However a number of such students are very labour market focused and do not wish to apply for DSP. Many consider there is a stigma attached to being a pensioner. Others consider there is a stigma attached to being “disabled” or they may not consider themselves to be disabled.

Examples:

Miss J has severe dyslexia and as a result requires considerably more time to read books, documents and papers at her university. Miss J also takes more time than most to present legible work for assessment. The time that this student spends studying on one unit to gain similar comprehension to a student without a substantial disability is double. Therefore for this student to gain reasonable grades the student can only study half the load of other students.

This student cannot be considered a full-time student under Youth Allowance legislation and therefore misses out on benefits afforded to other students. The student must also visit Centrelink offices to update Preparing For Work Agreements.

A 25% workload concession would allow this student to study as a student, with all the benefits of a student, and without the inconvenience caused by not being considered a full-time student by Centrelink

Resolution:

Section 541B of the Social Security Act 1991 would need an amendment to add an extra category of concessional load student. This legislation could be modelled on the current Austudy concessional load legislation.

The disallowable instrument “Youth Allowance (Satisfactory Progress Guidelines) Determination 1998” would need amendment in order to allow students with substantial disabilities up to four times the normal length of the course to be considered as satisfactory progress.

I hope you find the issues raised important enough to consider and appreciate the opportunity to express our concerns. If there are any further questions on any points raised then please contact me on 02 62445940.

Yours Sincerely

Greg Featherstone

Centrelink Youth & Student Community Segment

Appendix 1.1 - Youth Allowance legislation stating minimum workload requirements for full-time students

Undertaking full-time study

General

541B.(1) For the purposes of this Act a person is undertaking full-time study

(a) the person:

(i) is enrolled in a course of education at an educational institution or

(ii) was enrolled in the course and satisfies the Secretary that he or she intends, and has (since no longer being enrolled) always intended, to re-enrol in the course when re-enrolments in the course are next accepted; or

(iii) was enrolled in the course and satisfies the Secretary that he or she intends, and has (since no longer being enrolled) always intended, to enrol in another course of education (at the same or a different educational institution) when enrolments in the other course are next accepted; and

(b) the person:

(i) is undertaking in the particular study period (such as, for example, a semester) for which he or she is enrolled for the course; or

(ii) intends to undertake in the next study period for which he or she intends to enrol for the course;

either:

(iii) in a case to which subsection (1A) does not apply—at least three-quarters of the normal amount of full-time study in respect of the course for that period (see subsections (2) to subsections (2) to (4) or

(iv) in a case to which subsection (1A) applies—at least two-thirds of the normal amount of full-time study in respect of the course for that period (see subsections (2) to (4) and

(c) the course in question is an approved course of education or study (see subsection (5) and

(d) in the Secretary's opinion, the person is making satisfactory progress towards completing the course.

When two-thirds study load applies

541B.(1A) This subsection applies for the purposes of subparagraph (1)(b)(iv) if the person cannot undertake the normal amount of full-time study in respect of the course for that period:

(a) because of the usual requirements of the institution in question in respect of the course; or

(b) because of a specific direction in writing to the student from the academic registrar, or an equivalent officer of the institution in question; or

(c) because the academic registrar, or an equivalent officer, of the institution in question recommends in writing that the person undertake the amount of study mentioned in subparagraph (1)(b)(iv) in respect of the course for specified academic or vocational reasons.

Paragraph (c) applies for no longer than half of the academic year.

Meaning of normal amount of full-time study

541B.(2) For the purposes of paragraph (1)(b) the normal amount of full-time study in respect of a course is:

(a) if the course is a designated course of study within the meaning of Chapter 4 of the *Higher Education Funding Act 1988*-the standard student load determined in respect of the course by the institution in question under subsection 39(2) of that Act; or

(b) if the course is not such a designated course and the institution defines an amount of full-time study that a full-time student should typically undertake in respect of the course-the amount so defined; or

(c) otherwise-an amount of full-time study equivalent to the average amount of full-time study that a person would have to undertake for the duration of the course in order to complete the course in the minimum amount of time needed to complete it.

Alternative meaning of normal amount of full-time study

541B.(3) For the purposes of paragraph (1)(b) and without limiting subsection (2) the normal amount of full-time study in respect of a course is an average, taken over the duration of the period for which the person in question is enrolled in the course, of 20 contact hours per week.

Appendix 1.2 - Current 25% workload concession legislation for students (Austudy payment)

Undertaking qualifying study

569A. For the purposes of this Part, a person is *undertaking qualifying study* if:

(a) the person:

(i) is enrolled in a course of education at an [educational institution](#); or

(ii) was enrolled in the course and satisfies the [Secretary](#) that he or she intends, and has (since no longer being enrolled) always intended, to re-enrol in the course when re-enrolments in the course are next accepted; or

(iii) was enrolled in the course and satisfies the Secretary that he or she intends, and has (since no longer being enrolled) always intended, to enrol in another course of education (at the same or a different educational institution) when enrolments in the other course are next accepted; and

(b) the course in which the person is enrolled, or intends to enrol, is an [approved course of education or study](#) (see [section 569B](#)); and

(c) the person is a full-time student or a concessional study-load student in respect of that course (see [sections 569C](#) and [569D](#)); and

(d) the person satisfies the progress rules (see [sections 569G](#) and [569H](#)).

History

S.569A inserted by Act No. 45, 1998, by s.3, Schedule 1(6);

Concessional study-load students

569D.(1) For the purposes of this Subdivision, there are 2 classes of concessional study-load students, namely:

(a) 25% concessional study-load students; and

(b) 66% concessional study-load students.

History

S.569D(1) inserted by Act No. 45, 1998, by s.3, Schedule 1(6);

569D.(2) For the purposes of this Subdivision, a person is a **25% concessional study-load student** in respect of a course if this subsection applies to the person and:

(a) in the case of a person who is enrolled in the course for a particular study period (such as, for example, a semester) -the person is undertaking at least one quarter, but less than three quarters, of the normal amount of full-time study in respect of the course for that period; or

(b) in the case of a person who intends to enrol in the course for a particular study period-the person intends to undertake at least one quarter, but less than three

quarters, of the normal amount of full-time study in respect of the course for that period.

569D.(4) [Subsection \(2\)](#) applies to a person if:

(a) an [officer](#) in the Commonwealth Rehabilitation Service or an appropriate [medical practitioner](#) who has a detailed knowledge of the person's physical condition has stated in writing that:

(i) the person has a substantial physical disability; and

(ii) the person cannot successfully undertake the normal amount of full-time study in respect of the course because of the disability; or

(b) a medical practitioner specialising in psychiatry has stated in writing that:

(i) the person has a substantial psychiatric disability; and

(ii) the person cannot successfully undertake the normal amount of full-time study in respect of the course because of the disability; or

(c) a psychologist who is registered with the [Board](#) established under the law of a State or Territory that registers psychologists has stated in writing that the person:

(i) is intellectually disabled; and

(ii) cannot successfully undertake the normal amount of full-time study in respect of the course because of the disability.

Appendix 1.3 - Previous Austudy legislation existing for all students in relation to the 25% workload concession prior to the introduction of Youth Allowance on 1/7/98

Chapter 2:

Part 4 - Students with disabilities and students getting certain pensions

52. Recognition of students with disabilities and students getting certain pensions

52(1) The rules set out in regulations 53 to 55 (inclusive) apply to a student if:

(a) an officer in the Commonwealth Rehabilitation Service has stated in writing that:

(i) the student has a substantial physical disability; and

(ii) the student cannot successfully undertake the normal full-time workload for his or her course because of the disability; or

(b) a registered medical practitioner specialising in psychiatry has stated in writing that:

(i) the student has a substantial psychiatric disability; and

(ii) the student cannot successfully undertake the normal full-time workload for his or her course because of the disability;

(c) the student is receiving;

(i) a disability support pension, a carer pension or a sole parent pension under the Social Security Act 1991; or

(ii) an invalidity service pension or a carer service pension under the Veterans' Entitlements Act 1986; or

(d) the student has a dependent child aged less than 16 years, and:

(i) is receiving a widow B pension under the Social Security Act 1991; or

(ii) is a sole parent and is receiving a special benefit under the Social Security Act 1991; or

(iii) is receiving a war widow's pension under the Veterans' Entitlements Act 1986; or

(iv) is receiving a defence widow's pensions under the Veterans' Entitlements Act 1986.

(2) The workload and previous study rules set out in:

(a) regulations 29 and 30, sub regulations 32 (1), paragraph 32 (2) (c) and regulations 34, 35, 36 and 43; and

(b) subject to paragraph 55 (2) (a) and subparagraph 55 (3) (b) (i) - regulation 41;

Do not apply to a student referred to in sub regulation (1).

(3) In applying regulations 53 and 55;

(a) account is to be taken of regulations 27, 28, 33, 38 and 45 and 47 to 51 (inclusive); and

(b) if a student was disabled in part of a year, he or she is taken to have been disabled for the whole of that year.

53 Students with disabilities and students getting certain pensions: workload

53. The student can get AUSTUDY only if he or she is enrolled to undertake, and undertakes, at least 25% of the normal full-time workload for his or her course.

55 Students with disabilities and students getting certain pensions: total length of tertiary study

55 (1) The student cannot get AUSTUDY for a tertiary course if he or she has been studying at that level for twice the minimum length of the course for a full-time student or longer.

(2) However, if the student did not have a disability when he or she began studying at that level, the student cannot get AUSTUDY if the sum of:

(a) the period for which he or she was studying at that level and did not have a disability, taking into account sub regulations 41 (1A) and 41(2) in determining the period; and

(b) half the length of the period during which he or she was studying at that level and had a disability;

Is equal to, or is greater than, the minimum length of the course for a full-time student.

(3) A sole parent pensioner student cannot get AUSTUDY in a year for a tertiary course unless:

(a) when he or she began the course in the year - the student was a sole parent pensioner; and

(b) the minimum length of the course for a full-time student is more than the sum of;

(i) the period for which he or she was studying at that level before becoming a sole parent pensioner, taking into account sub regulations 41 (1A) and 41(2) in determining the period; and

(ii) half the length of the period during which he or she was studying at that level while being a sole parent pensioner.

Appendix 1.4 - Legislation allowing Pensioner Education Supplement Students to received PES payments whilst studying 25% of the normal full time load.

1061PE.(2) For the purposes of this Subdivision, a person is a **25% concessional study-load student** in respect of a course if this subsection applies to the person and:

(a) in the case of a person who is enrolled in the course for a particular study period (such as, for example, a semester) -the person is undertaking at least one quarter, but less than three quarters, of the normal amount of full-time study in respect of the course for that period; or

(b) in the case of a person who intends to enrol in the course for a particular [study](#) period-the person intends to undertake at least one quarter, but less than three quarters, of the normal amount of full-time study in respect of the course for that period.

**Appendix 1.5 Disallowable instrument in relation to the allowable time
Centrelink payments may be made in respect to a course:**

PART 2-GUIDELINES

Division 1-Kinds of full-time study

2.1 Long courses

(1) Satisfactory progress in a long course is completion of the course within a period of time comprising:

(a) the standard minimum length of the course; and

(b) an additional period for completion of 1 uncompleted subject or unit that is a part of the course.

Examples

1. If the course is a 3 year course and includes semester units, one of which has been failed, or not completed-satisfactory progress is completion in 3 years and 1 further semester; or

2. If the course is a 3 year course and includes yearly units, one of which has been failed, or not completed-satisfactory progress is completion in 3 years and 1 further year.

(2) However, a person who, under subsection (1), is not making satisfactory progress, may, in the opinion of the Secretary, be making satisfactory progress if the person is, or has been, affected by circumstances beyond his or her control.

(3) Reference in this section to a course includes reference to an articulated course that is a long course.

