

Submission from the

**Council of Australian Postgraduate Associations  
(CAPA)**

To

The Senate Committee on Employment, Workplace Relations,  
Small Business and Education References Committee

**Inquiry into**

**The Education of Students with Disabilities**

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The Council of Australian Postgraduate Associations (CAPA) is the peak body for Australia's 155,450 postgraduate students. Postgraduate students fall into two main categories: those undertaking Higher Degrees Research (HDR) and those undertaking postgraduate coursework programs. The latter cover all levels of award from graduate certificate to professional doctorate. CAPA welcomes the opportunity this submission brings to address the needs of Australian postgraduates with disabilities.

In this Submission, we limit our comments to a subset of the terms of reference identified by the Senate Committee, focusing on those we see as being of particular relevance to Australia's postgraduate students, namely sections 1a: i, ii, vi; vii, and 1b.

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## List of Recommendations

CAPA recommends:

1. that the Department of Education, Science and Training (DEST) require that a clause outlining the uses to which disability data will be put (similar to that used at James Cook University) be included in all institutions' enrolment information packages, and that reference to the clause be inserted on all enrolment forms in the tick-a-box section. Students' attention should be drawn to the *Act*, which protects their equality of access. **p 12**
2. that the disclosure boxes on enrolment forms are altered to include the opportunity for detailed disclosure. **p 13**
3. that the Senate take *immediate action* to ensure that the *Draft Standards for Disability in Education* is amended to recognise that it is the responsibility of all public institutions to proactively ensure that they are equipped to cater to *all* students, by designing, upgrading, and maintaining both their physical environment and their pedagogic models in such a way that they are appropriate to students with disabilities. **p 16**
4. that the Committee take *immediate action* to ensure that the *Draft Standards on Disability in Education* do not extend 'unjustifiable hardship' to any rights of the student beyond initial enrolment. **p 20**
5. that DEST require all institutions to provide evidence that they have anti-discrimination protocols in place, and that they ensure all staff are trained in disability awareness. DEST should ensure there is an external body equipped to monitor institutions' compliance with such protocols. **p 21**
6. that the Research Training Scheme legislation be revised to take into consideration the burdens many students with disabilities suffer which can hinder timely completion. The RTS must be amended so as not to discriminate against equity groups. Specifically, the 2 year full-time Masters and 4 year full-time PhD candidatures (and corresponding part-time candidatures) must be abolished and replaced with a candidature time frame which allows completion times to be tailored in a way appropriate to individuals. CAPA sees the current RTS completion times as overtly discriminatory. **p 24**

7. that:

- part-time scholarships (like full-time scholarships) are made tax-free
  - a number of additional APA scholarships are set aside each year for equity groups
  - institutions ensure that they have an adequate number (5% would be appropriate) of their scholarships set aside for students with a disability, and that these scholarships are allocated using a system which does not disadvantage students whose grades may not reflect their full potential. **p 26**
8. that PELS be abolished, and replaced with a flat rate of HECS. **p 27**
9. that the Commonwealth review the RDLO program with a view to establishing a centralized coordinating body to liaise between institutional disability liaison units. **p 30**
10. that DEST establish a taskforce to analyze institution's equity plans, and devise progressive policy initiatives ensuring that issues of best practice at individual institutions are implemented throughout the sector. **p 31**
11. that a review group be constituted by DEST to investigate a more centralised approach to the funding of students with disabilities, including special provision for students with high cost needs, and a system of grants for upgrading existing infrastructure. **p 33**

## Introduction

There is no doubt that Australian universities are currently in a state of crisis—as reported in last year’s Senate Inquiry into Higher Education report *Universities in Crisis*.<sup>1</sup> The shock-waves of the funding cuts imposed by successive Federal governments still reverberate through the sector, and there seems little light on the horizon. In this climate, it is students who don’t fit traditional stereotypes (young, fit, financially secure), who require extra human and financial resources, who suffer most. Students with disabilities often find themselves outside of this mould, and for them, along with other equity groups (such as Aboriginal and Torres Straight Islanders, students from low SES backgrounds, women, and NESB students), the higher education sector can be a less than welcoming place. Large classes, a lack of resources, and spiralling staff-student ratios, impact particularly on these groups.

However, the situation is not completely bleak. Since the release of the Federal policy document *A Fair Chance for All: Higher Education that’s within Everyone’s Reach* in 1990, and the passing of the *Disability Discrimination Act* in 1992, the sector has been making (in certain areas) a concerted effort to raise the participation rate of equity groups. In this submission, we seek to set out examples of best practice, as well as drawing attention to areas where improvement is needed.

### 1. Sector Snap-shot

As we shall set out below (Section 2), demographic information about the participation of students with disabilities in Australian Higher Education has only been collected since 1996, and even this information is at best problematic. However, the Department of Education Science and Training (DEST) estimates that around 18,925 non-overseas students with disabilities

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<sup>1</sup> Commonwealth of Australia 2001, *Universities in Crisis*, Canberra.

[http://www.aph.gov.au/senate/committee/EET\\_CTTE/public%20uni/report/contents.htm](http://www.aph.gov.au/senate/committee/EET_CTTE/public%20uni/report/contents.htm),  
25/4/02

were studying at Australian tertiary institutions in 2000, out of a total cohort of 695,485 (599,878 non-overseas) students.<sup>2</sup>

Of the total 2000 cohort, 130,720 students (of whom 102,399 were non-overseas students) were postgraduate students. Unfortunately, there is no freely available data showing how many of the postgraduate cohort report having a disability. It would be inappropriate to assume that as 3.2% of the total non-overseas cohort are disabled, 3.2% of the postgraduate cohort (or 3277 students) are disabled, since disability increases with age, meaning that the proportion of postgraduates with a disability will be higher than that of undergraduates. Other factors affecting the difficulty of interpreting DEST's data will be outlined below. However, for the purposes of this general overview, a snap-shot of the entire higher education student cohort will suffice.

One of the most interesting elements of the apparent participation of students with disabilities in higher education is the degree to which access rates differ across institutions. Figure 1, outlines the 1997 cohort of commencing students with disabilities (those who ticked 'yes' to the disability question on their enrolment forms) across all universities:<sup>3</sup>

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<sup>2</sup> These numbers are based on students checking 'yes' on a box marked "Do you have a disability, impairment or long-term medical condition which may affect your studies?" on their enrolment form. See also Section 2, below.

<sup>3</sup> Data for the figures shown in this section is drawn from, DETYA 1999, *Equity in Higher Education*, Section 3.11. "Students with a disability," <http://www.dest.gov.au/archive/highered/occpaper/99A/equityhe3.pdf>, 26/4/02.

## Access by Institution

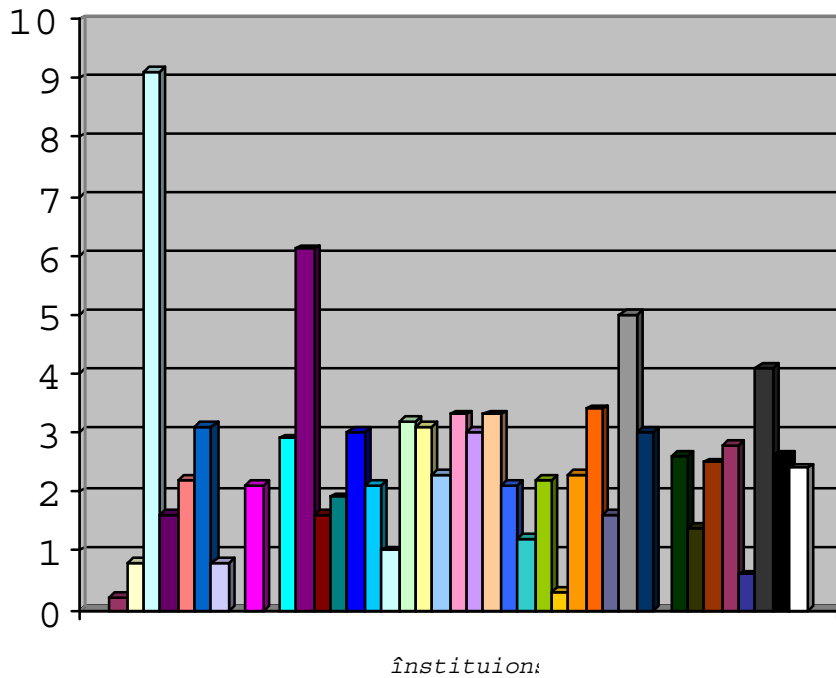


Figure 1 shows the percentage of commencing students who have a disability. Each bar represents one of the 38 Australian Universities: *note that the upper limit in this figure is 10%*)

Access varies extremely widely from institution to institution. It is clear that certain institutions are far more attractive to students with disabilities than others. One can only assume that factors specific to the institution affect the decision of students with disabilities to enroll there.

It is interesting to note, however, that success and retention do not vary so widely across institutions. Once students commit to study, their success rates often compare favorably to (and occasionally better than) other members of their cohort. In Figure 2 below, 'success' is the proportion of units passed by members of the equity group compared with the proportion passed by other students; and 'retention' is the proportion of equity group students retained from one year to the next compared to the total cohort:

## Success and Retention

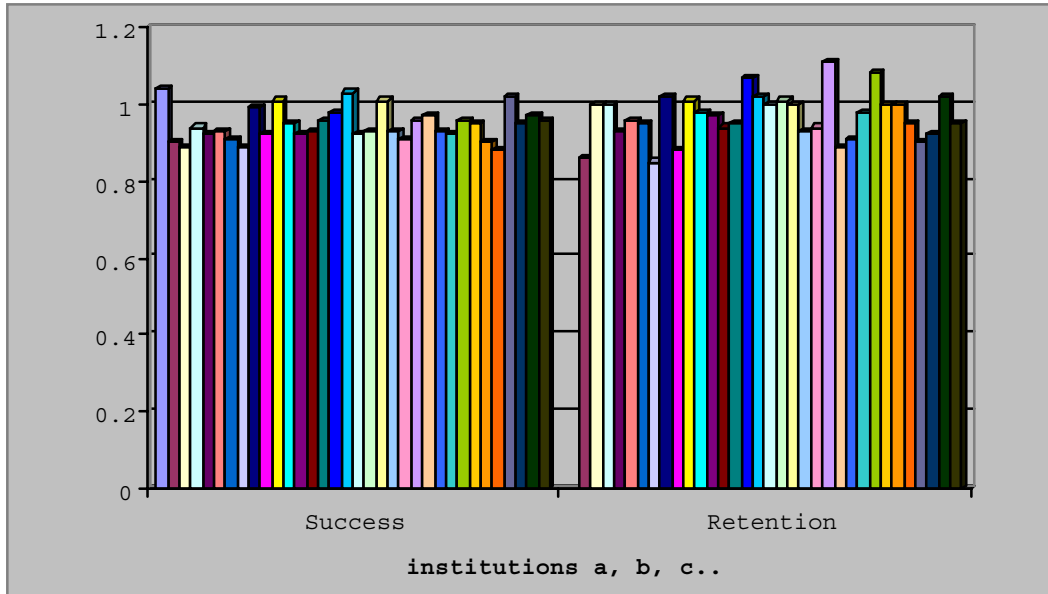


Figure 2. Shows success and retention of students with disabilities in comparison to the rest of the cohort. 1:1 is parity with students without disabilities. A score greater than 1 shows a better rate of success or retention.

## 2. Identification of students with disabilities in Australian Universities

This section addresses issues pertaining to item 1/a/i of the Inquiry's Terms of Reference: "whether current policies and programs for students with disabilities are adequate to meet their needs, including but not limited to, the criteria used to define disability and to differentiate between levels of handicap."

Access to higher education for students with disabilities in Australia is governed by the Disability Discrimination Act 1992.<sup>4</sup> CAPA does not wish at this time to call into question the definition of disability provided for under the act.<sup>5</sup> However, in this section we would like to provide comment on the manner in which students with disabilities are identified by institutions of higher education in Australia, as well as by DEST.

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<sup>4</sup> DDA, Part 2, Division 2, 22: "Education."

<sup>5</sup> The DDA defines 'disability' at Item 4, Interpretation, under Part 1, "Preliminary."



## 2.1 Self Disclosure

The Department of Education Science and Training tracks the participation of disabled students in higher education through students ticking “yes” to the question “Do you have a disability, impairment or long-term medical condition which may affect your studies?” on their enrolment form. As this practice has only been in place since 1996, it is extremely difficult to properly assess changes in the cohort.<sup>6</sup> Further, because many students may choose not to tick the box, despite belonging to a group commonly designated as ‘disabled’, it is difficult even to be confident about the figures which do exist.

## 2.2 Lack of Disclosure

The addition of a disability disclosure tick-a-box on university enrolment forms is an overly simplistic method of acquiring participation data for this equity group. For example, there are many reasons why a student may chose not to disclose their disability. Some prefer not to be categorized as ‘disabled’, others fear that disclosure will not be treated in confidence. Anecdotal evidence suggests that the number of students who choose not to disclose their disability may be very high at some institutions.<sup>7</sup>

In the years subsequent to the insertion of the “disability” check-box on enrollment forms, there has been a slight increase in participation by those students identifying themselves as having a disability (Table 1).

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<sup>6</sup> This lack of information contrasts with other equity groups: Aboriginal and Torres Strait Islander students, and students from non-English speaking, rural, isolated and low SES backgrounds have been tracked for a much longer time—though note that many of these tracking devices are in themselves problematic (for example tracking low-SES through use of postcodes).

<sup>7</sup>UNSW 2000, *Students with Disabilities in Higher education: At whose cost and what price?*, p. 15-6.

Equity Group Enrolments	1998	%	1999	%	2000	%
Aboriginal or Torres Strait Islander	7,789	1	8,367	1	7,682	1
Non-English Speaking Background	28,337	5	26,168	4	23,674	4
<b>Disability</b>	<b>16,784</b>	<b>2.4</b>	<b>18,084</b>	<b>3.0</b>	<b>18,926</b>	<b>3.2</b>
Women in Non-Traditional Fields	116,243	19.4	125,374	20.8	125,376	20.9
Total All non-overseas Students	599,670		603,156		599,878	

Table 1. University Enrolments in Equity Groups, 1998-2000 (non-overseas enrolments)<sup>8</sup>

This rise has been attributed by some to a real increase in the numbers of disabled students participating in higher education. For example, on the basis of this evidence, the UNSW sponsored discussion paper, *Students with disabilities in higher education: at whose cost and what price?* concluded that:

Over the 1996-99 period a rise of 65% was recorded in the number of students with disabilities (61% in the participation rate).<sup>9</sup>

Despite the problems, CAPA endorses the use of self-disclosure. CAPA believes that neither the University nor any other body should have the right to apply or withhold identification as 'disabled' to any individual without their consent. However, many of the problems associated with the current method of self disclosure could be mitigated through opportunities for students to give more detailed information about their disability, and by providing a more encouraging atmosphere for self-disclosure. Students need to be assured that their records are confidential.

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<sup>8</sup> Australian Vice Chancellors Committee 2001, *Key Statistics on Higher Education*, Table C.13, [http://www.avcc.edu.au/policies\\_activities/resource\\_analysis/key\\_stats/Access.pdf](http://www.avcc.edu.au/policies_activities/resource_analysis/key_stats/Access.pdf), 24/4/02.

<sup>9</sup> UNSW 2000, *Students with Disabilities in Higher education: at Whose Cost and What Price?*, p.4

### 2.3 Simplistic Disclosure Options

While CAPA supports the enrolment form check-a-box option, the simplicity of simply identifying as having a disability without the option to specify the *type* of disability is problematic. Not only does it limit the scope for obtaining accurate data on the participation of this equity group, but it *prevents* universities from being able to determine what support may be required for individuals in this cohort.

CAPA concurs with the sentiments expressed in the Australian Vice-Chancellors Committee (AV-CC) Guidelines Relating to Students with Disabilities (1996), which asks that:

Universities ... encourage prospective students and current students with disabilities to notify the university at an early stage of their specific service and facility requirements so that the university can attempt to plan and prepare for the special support which may be required. In order to encourage disclosure, universities should assure students that the information provided would be treated as confidential. (4.3, AV-CC; 1996)

Such a plea goes far beyond the basic requirement for the “Do you have a disability, impairment or long-term medical condition which may affect your studies?” box. The importance of giving students the opportunity to outline their *specific* needs in a way that allows swift cooperation by the university is of obvious importance. Asking for information about disability in such a way *that students can see that the request is associated with the university's willingness to provide service and support* is an excellent way to encourage disclosure.

The web guide for students with disabilities at James Cook University provides a good role model:

#### **IDENTIFICATION**

*Students with disabilities who may require support services are encouraged to disclose their needs at the earliest opportunity.*

*Potential students may contact the Disability Resources Office prior to making an application for admission, by completing the questionnaire provided by QTAC, upon receipt of an offer of a place at the University or when submitting enrolment forms. Early identification is particularly important in the case of those students with high support needs, to ensure that support is available before the start of the academic year. Failure to identify, or late notification, may result in resources being unavailable or delayed. Identification will also assist the University in forward planning and identifying areas of need.*

*Although early identification is important, students are welcome to request assistance at any time.<sup>10</sup>*

CAPA believes that the kind of initiative taken by James Cook University would encourage students to identify as having a disability, because it mitigates the fear that such data will be used against the student.

**CAPA recommends (1)** that the Department of Education, Science and Training require that a clause outlining the uses to which disability data will be put (similar to that used at James Cook University) be included in all institutions' enrolment information packages, and that reference to the clause be inserted on all enrolment forms in the tick-a-box section. Students' attention should be drawn to the *Act*, which protects their equality of access.

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<sup>10</sup> James Cook University Web Site, <http://www.library.jcu.edu.au/disability/guide.html>, 26/4/02.

## 2.4 Alternate forms of Disclosure

The importance of providing choice in the kinds of disclosures students make is highlighted by the equivalent mechanism of self-disclosure in New Zealand. Whereas Australian enrollment forms ask “Do you have a disability, impairment or long-term medical condition which may affect your studies?”, New Zealand students are asked two separate questions—whether they have a disability, *and* whether it affects their study. At the University of Otago in 1998, 5.5% of students identified as having a disability, but only 1.9% of students identified their disability as affecting their study.<sup>11</sup> Such cases demonstrate the importance of institutions asking for the information they actually want (how many student’s studies are affected by disability), in a way that can be correlated against the more general population information (disabled students as a percentage of total enrolments). Allowing students to specify the kind of disability they have would be better yet.

**CAPA recommends (2)** that the disclosure boxes on enrolment forms are altered to include the opportunity for detailed disclosure.

## 3. Acting on postgraduate students’ disability related needs

This section relates to item 1/a/iii of the Inquiry’s Terms of Reference: “the accuracy with which student’s disability related needs are being assessed.” However, in this section, we wish to comment more particularly on the way in which the needs of students with disabilities are being *addressed*.

There are two possibilities for assessing, and acting on, the needs of students with disabilities:

- ensuring that institutions design, upgrade, and maintain both their physical environment and their pedagogic models, in such a way that they are appropriate to students with disabilities (a proactive approach); or,

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<sup>11</sup> Holt and McKay 2000, *Issues Affecting Postgraduate Students with Disabilities at the University of Otago*, p. 7.

- put in place such structures only upon request from individual students (a reactive approach).

CAPA believes that the proactive approach is the more appropriate of the two, and supports the ideals addressed in the Disability Discrimination Act (DDA). The National Board of Employment, Education and Training (NBEET) would appear to concur. In its 1996 document, *Equality, Diversity and Excellence: Assessing the National Higher Educational Equity Framework*, NBEET contends that:

[Recommendation 2.3] The educational disadvantage experienced by some sections of the community in part arises from inadequacies and limitations of the educational system and the system has an obligation to redress this impact.<sup>12</sup>

### 3.1 *The Draft Disability Standards for Education*

However, *Draft Disability Standards for Education*, currently being prepared under the auspices of the Office of the Attorney General, looks likely to perpetuate many of the disadvantages experienced by students with disabilities in higher education. Although we recognize that some excellent work is being done at an institutional level to assist students with disabilities, CAPA is concerned that the *Standards*, if implemented, will impede the movement towards better access, rather than advance the aims of the DDA.

The *Disability Discrimination Act 1992* allows for the creation of disability standards through the Office of the Attorney General.

Standards will clarify the actions required to comply with the Act. These standards will set specifications and/or performance outcomes which must be met. ... Compliance with the Standards will be a complete defence against a claim of discrimination under the Act.<sup>13</sup>

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<sup>12</sup> NBEET 1996, *Equality, Diversity and Excellence: Assessing the National Higher Educational Equity Framework*.

<sup>13</sup> Commonwealth Office of Disability Policy Web Site, <http://www.facs.gov.au/disability/ood/dda.htm>, 22/4/02.

Draft *Disability Standards for Education* are currently being prepared, and CAPA is concerned that the *Draft Standards*, in their current form, steer institutions towards the reactive, rather than proactive, stance.

### 3.2 *The Draft Disability Standards for Education, and Student Initiated Support*

The extent to which the *Standards* allow institutions to use student-initiated disclosure to avoid their responsibilities is disturbing.

A number of reports (such as the AVCC paper referred to in Section 2), cite the importance of student disclosure to timely provision of support. A further example, *Students with Disabilities: Code of Practice for Australian Tertiary Institutions* (DETYA 1998), says “Institutions have a right to expect that students with disabilities will make known their particular requirements in a timely manner so that appropriate services may be provided.”<sup>14</sup> However, such a statement *must not* be interpreted as meaning that institutions are not required to be pro-active in ensuring their environment (both physical and pedagogic) is appropriate for all students.

Disturbingly, the *Draft Standards* go much further than *the Code of Practice*—they state explicitly that the student is responsible for initiating the provision of services and support:

The obligation on the provider to implement any adjustments is subject to provision by the student, or his or her associate, of timely and relevant advice of the student’s individual requirements.<sup>15</sup>

The idea that the institution has no responsibility for implementing adjustments to existing infrastructure unless specifically requested has

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<sup>14</sup> Commonwealth of Australia 1998, *Students with Disabilities: Code of Practice for Australian Tertiary Institutions*, 3.4 Recognition by Students, [http://www.qut.edu.au/pubs/disabilities/national\\_code/code.html](http://www.qut.edu.au/pubs/disabilities/national_code/code.html), 24/4/02.

<sup>15</sup> DEST 2002, *Consultations on the Draft Disability Standards for Education*, [http://www.dest.gov.au/archive/iae/analysis/Draft\\_Disability\\_Standards.htm#enrolmnt](http://www.dest.gov.au/archive/iae/analysis/Draft_Disability_Standards.htm#enrolmnt), 22/4/02.

angered many disability support and action groups. In *A Way Forward: Report of the Disability Sector's Response to the Draft Disability Discrimination Education Standard* (January 2001), the National Council on Intellectual Disability cites a disability legal service's views on this matter:

The obligation of a provider to 'implement' accommodation is not subject to advice [of] student's individual requirements. In fact the provider has an obligation to ascertain on an ongoing basis the needs of a student and any development in or changes to those needs. The idea that a student or his or her associates bear the primary responsibility for securing adjustments misallocate[s] responsibility and is typical of an approach to discrimination law that has seen individual litigants bear responsibility for policing the obligations of providers under the DDA.<sup>16</sup>

Neither CAPA nor other student representative bodies will tolerate a climate in which policing the fulfilment of the obligations of public education institutions become the responsibility of the students attending them.

**CAPA recommends (3)** the Senate take *immediate action* to ensure that the *Draft Standards for Disability in Education* is amended to recognise that it is the responsibility of all public institutions to proactively ensure that they are equipped to cater to *all* students, by designing, upgrading, and maintaining both their physical environment and their pedagogic models in such a way that they are appropriate to students with disabilities.

### 3.3 *The Draft Disability Standards for Education, and 'Unjustifiable Hardship'*

Further to these problems of student initiated reform, the *Draft Standards* interpret the *Act* in a way that perpetuates institutionalised discrimination through provision of a loop-hole allowing institutions to avoid the responsibility for reform altogether. Many education institutions are built and/or operate in a

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<sup>16</sup> National Council on Intellectual Disability (NCID) 2001, *A Way Forward Report of the Disability Sector's Response to the Draft Disability Discrimination Education Standard*, <http://www.dice.org.au/in/ddaed.html>



way which systemically disadvantages the disabled—both through inappropriate physical design, as well as entrenched pedagogic norms (which extend to misuse of information technology). The *Disability Discrimination Act 1992*, attempts to ensure that students enrolled in educational institutions will not be discriminated against *while* enrolled, but does provide at section 22.4 for an institution to refuse to enrol the student in certain circumstances:

This section does not render it unlawful to refuse or fail to accept a person's application for admission as a student at an educational institution where the person, if admitted as a student by the educational authority, would require services or facilities that are not required by students who do not have a disability and the provision of which would impose unjustifiable hardship on the educational authority.

Unjustifiable hardship is defined under the act in the following way:

For the purposes of this Act, in determining what constitutes unjustifiable hardship, all relevant circumstances of the particular case are to be taken into account including:

- (a) the nature of the benefit or detriment likely to accrue or be suffered by any persons concerned; and
- (b) the effect of the disability of a person concerned; and
- (c) the financial circumstances and the estimated amount of expenditure required to be made by the person claiming unjustifiable hardship; and
- (d) in the case of the provision of services, or the making available of facilities—an action plan given to the Commission under section 64.

Note that the DDA specifically describes 'unjustifiable hardship' as needing to be determined on a case-by-case basis, and unjustifiable hardship is only mentioned in terms of education insofar as it can be used to deny an enrolment. However, the *Draft Disability Standards for Education*, designed to be read in concert with the DDA, go much further. At Section 10, "Exceptions", the Draft Standards set out an unjustifiable hardship clause

similar to that at 22.4 of the DDA, but, unlike the DDA, the *Guidelines* exempt education institutions from more than just being bound to enrol a student. In sections 6, 7, and 8 of the *Guidelines*, students are provided the following rights:

6.1 Students with disabilities have the same rights as other students to participate in the full range of programs and services and to use facilities provided by the education or training institution.

7.1 Students with disabilities have the same rights as other students to participate in educational programs or courses that develop their skills, knowledge and understanding, including relevant supplementary programs.

8.1 Students with disabilities, like other students, have the right to use student support services provided by education authorities and institutions.

Students with disabilities also have the right to the specialised services provided by education authorities and institutions and other agencies in the health and community services sector. These services include specialist expertise and/or support for personal and medical care, without which some students with disabilities would not be able to access education and training.<sup>17</sup>

In an appalling twist, at the end of each of sections 6, 7, and 8, the *Standards* belie the pretence of serious intent by allowing 'unjustifiable hardship' on the part of institutions to exempt them from maintaining each of these student rights. Note that, once the Standards are authorised by the Attorney General, *compliance with them would be a complete defence against a claim of discrimination under the Act.*<sup>18</sup>

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<sup>17</sup> DEST 2002, *Consultations on the Draft Disability Standards for Education*, [http://www.dest.gov.au/archive/iae/analysis/Draft\\_Disability\\_Standards.htm](http://www.dest.gov.au/archive/iae/analysis/Draft_Disability_Standards.htm), 22/4/02.

<sup>18</sup> Commonwealth Department of Family and Community Services Web Site, <http://www.facs.gov.au/disability/ood/dda.htm>, 15/4/02

The response of the National Council on Intellectual Disability to *the Draft Guidelines* brings the legality of this use of ‘unjustifiable hardship’ into question. Citing a disability legal service, the report says:

...we consider the extension of the defence of unjustifiable hardship to be against sound policy reasons and to be an unacceptable reduction in rights under the DDA. We do not consider that the standard making power under s31 DDA gives the power to fundamentally change rights that have been spelt out in the DDA. The general rule is that subordinate legislation, such as disability standards, will not be inconsistent with the principal act. The legal advice provided to the MCEETYA task force argues that on the basis of the wording in the DDA and some judicial decisions, the disability standards may vary the Act. However decisions [which] ... apply to particular situations where there were transitional arrangements [are] being made, [are] quite different to the situation of creating standards for the future. One would expect the courts to be cautious in reading a power to derogate from rights set out in a principal act designed in accordance with international human rights obligations to redress disadvantage experienced by people with disabilities.<sup>19</sup>

The extension of the ‘unjustifiable hardship’ clause to the most basic rights of the student must not be allowed. Should an institution be able to prove at law that they are unable to provide the infrastructure and support necessary to enrol a particular student, that is a matter for the courts. It is, however, completely unacceptable that institutions should be able to decide, *during the student’s candidature* that they are no longer able to provide programs and services, skill programs, or support services.

**CAPA would particularly like to draw the Committee’s attention to the problematic interaction between the issue of student initiated reform and broad-ranging ‘unjustifiable hardship.’** Under Clauses 6.2, 7.2 and 8.2 the student has no right to support until they notify the provider (presumably after enrolment). Under Section 10.1 the university can

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<sup>19</sup> NCID 2001, p. 11, 3.2

challenge the student's right to the freedoms guaranteed under the *Act*, after enrolment. This is not satisfactory.

**CAPA recommends (4)** that the Committee take *immediate action* to ensure that the *Draft Standards on Disability in Education* do not extend 'unjustifiable hardship' to any rights of the student beyond initial enrolment.

#### **4. The nature, extent and funding of programs that provide for full or partial learning opportunities with so called 'mainstream' students**

Even simple initiatives can make a huge difference to students' ability to take part in learning alongside so called 'mainstream' students. The initiative taken by the University of Adelaide Student and Staff Services Learning and Disability Access is a case in point. To prevent the occurrence of having to find ad hoc methods of getting students with impaired mobility related disabilities, access to lecture theatres and classrooms, the service asks students to make their needs known early, so that classes can be scheduled in more suitable rooms. Having to take students through unusual entrances, and other access methods, is potentially embarrassing to the students, and places them in a situation apart from the rest of their cohort before they even begin. The simple solution of trying to ensure that the classes are scheduled appropriately in the first place means that students can participate in an entirely natural way. The Centre's Disability Liaison Officer, Meredith Norton, explains:

I work on the premise that the University must reasonably accommodate the student and usually I am successful. We cannot deny a student access to a subject because the room is inaccessible. I don't like the idea of a student having to watch a video of a lecture etc. I have not had to do that yet and hope I can avoid it. We do have some lecture theatres that are very difficult to access and I have been screaming for a new lift for the whole time I have been here. Sometimes it involves students being escorted through 'security areas' to get to places. Sometimes, if we have enough notice, we get the room changed. We actually only

have two lecture theatres that are totally inaccessible to wheelchair users.<sup>20</sup>

In order for students with disabilities to feel included and valued in university education, their needs must be considered right from the start. CAPA applauds initiatives like that expressed above, and asks that such best practice initiatives become uniform across the sector. (See recommendation 10.)

## **5. Training and professional development of academic and general staff in Australian Universities**

While many institutions provide professional development for staff which includes disability awareness, the practice is not universal. As one disability liaison staff member puts it:

In general terms the ability of universities to provide education that is inclusive of people with disabilities and train individuals to be aware of people with disabilities is poor. Just look at the news to see how many inappropriate terms such as ‘wheelchair bound,’ ‘deaf and dumb’ etc are used by journalists.<sup>21</sup>

The requirement that all staff members treat both other staff members and students without discrimination is provided for under the *Disability Discrimination Act*. However, universities must be required to have strict protocols in place to ensure this is the case. Further, training in disability awareness should be mandatory for all staff who work with students.

**CAPA recommends (5)** that DEST require all institutions to provide evidence that they have anti-discrimination protocols in place, and that they ensure all staff are trained in disability awareness. DEST should ensure there is an external body equipped to monitor institutions’ compliance with such protocols.

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<sup>20</sup> Private correspondence.

<sup>21</sup> Private correspondence

## 6. Other Issues affecting Disabled Postgraduates

As well as the issues addressed by the Inquiry's Terms of Reference, postgraduates with a disability often find that a number of other factors impact on their ability to study, which are specific to them as postgraduates. A disability liaison worker contacted by CAPA summed up the situation for postgraduates very well:

[University x is] anecdotally beginning to see the increased participation of students with disabilities in undergraduate flow through to post graduate study. There are some barriers in place that impact on this transition; **Lack of special entry scheme** into post grad, most uni's have a special entry scheme for undergraduate; **lack of equity scholarships/financial assistance** for students with disabilities, many students will have their academic performance affected by their disability, the merit based approach although appropriate generally has no provision for special circumstances; **attitudinal barriers** are still in place, post grad supervisors are often not aware of how to accommodate a disability; **infrastructure** is often problematic for research intensive degrees, inaccessible buildings/laboratories etc make postgrad research problematic for many students... and I think the importance that uni's across the board are placing on disability issues has diminished in recent years,<sup>22</sup>

This section will investigate a number of issues which specifically impact on postgraduates with a disability, particularly: inflexible completion times for research students; inflexible hours and modes of delivery for coursework students; the need for appropriate scholarships (which are tax-free); and, the extra burden of PELS for students on a low income.

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<sup>22</sup> Private correspondence

### *6.1 Completion times for Postgraduate research Students under the RTS*

The Research Training Scheme (RTS), introduced by DEST (then DETYA) in 2000 and implemented in 2001, has been the focus of extreme criticism from throughout the sector. One of its many problems is that it ties the funding of postgraduate research education to the completion of research degrees. The RTS sets out a maximum funding period for research degrees of 4 years full-time for PhD's and 2 years full-time for Masters by Research degrees.

CAPA believes this imposition of time limits stems from an imaginary crisis of wastage in postgraduate research. DEST argues that completion rates are too slow and attrition rates too high, that graduates are not attractive to industry and the quality of supervision and research education is poor. We dispute this argument, and we continue to argue against the inequity of the new limits imposed on research times.

As well as ensuring that institutions shy away from thesis proposals which are bold and innovative (as these kinds of research can take significantly longer than may initially be envisaged), CAPA is highly concerned that the RTS formula will make students from equity groups unattractive to universities. If funding will only be available to support a PhD student for 4 years, why would an institution want to take on a student with a learning disability such as dyslexia, for example, or a student with impaired vision, who may need to take longer in order to have text enlarged or converted to Braille? What possible incentive is there to choose a potentially 'problematic' student from amongst a group of otherwise 'easy' candidates?

CAPA continues to battle the many shortcomings of the RTS, and asks the Committee's support in lending weight to the argument that different students do things differently—in terms of enrolment times, one size most definitely does not fit all.

**CAPA recommends (6)** that the Research Training Scheme legislation be revised to take into consideration the burdens many students with disabilities suffer which can hinder timely completion. The RTS must be amended so as not to discriminate against equity groups. Specifically, the 2 year full-time Masters and 4 year full-time PhD candidatures (and corresponding part-time candidatures) must be abolished and replaced with a candidature time frame which allows completion times to be tailored in a way appropriate to individuals. CAPA sees the current RTS completion times as overtly discriminatory.

### *6.2 Inflexible delivery*

CAPA is also concerned at the way the current trend towards 'streamlining' of delivery of education discriminates against equity groups. CAPA has heard many complaints about courses advertised as being available 'part time' but comprising units only available during business hours. Equally, some units for a given course may only be available in the evening.

Students with access difficulties often have problems accessing classes in the evenings, when there may not be staff available to offer assistance. Other students have difficulty getting to daytime classes. However, flexibility needs to go far beyond hours of education. Supervisors need to be able to work with research students in ways suitable to the individual—some student learn better if they can correspond online (especially housebound students), some need extra borrowing times from the library, and some may have problems with non-verbal communication. These difficulties spring back to the need for appropriate professional development and training for staff.

The key is that, as a greater diversity of students enter tertiary education, old ways of doing things need to be reviewed. CAPA recognises that this is happening in many institutions (even if only in scattered departments), but 'flexibility' needs to become a key word in the language of university administration. This matter should be considered in concert with the section on Equity Action Plans, below.



### 6.3 Scholarships / Coursework Scholarships

Currently, the most common postgraduate scholarship, the Australian Postgraduate Award (APA), is funded centrally through the Australian Research Council, with individual institutions being allocated a certain number of scholarships, and then being at liberty to decide how to award them. Institutions also often have their own scholarships, as well as scholarships administered either privately or by institutions stemming from bequests and donations. This ad hoc scholarship procedure can make it very difficult for students to find out about suitable equity scholarships. Further, there are very few such scholarships (it would be extremely difficult to calculate how many, and which).

The University of Melbourne Postgraduate Association explains some of the difficulties with scholarships at their institution in this way:

Scholarships that target equity groups are a vital way to increase their access to higher education. They are particularly critical at the postgraduate level, where many students are ineligible for government income support and transport concessions, [and] cannot obtain an Australian Postgraduate Award. The University of Melbourne has begun to acknowledge the value of equity scholarships, but most are at the undergraduate level, including all those targeted at rural students. Only three centrally funded postgraduate level equity scholarships exist (for women with career interruptions, Aboriginal and Torres Strait Islander students and students with a disability), and none are on offer in 2001 due to a lack of funds/priority. The latest Equity and Diversity Audit recommends that the University consider additional postgraduate scholarships for equity students. This recommendation must extend to the national level, with increased government funding of equity scholarships.<sup>23</sup>

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<sup>23</sup> University of Melbourne Postgraduate Association (UMPA) 2001, *Submission to the senate Inquiry into Higher education*, [www.umpa.unimelb.edu.au](http://www.umpa.unimelb.edu.au), 24/4/02.

The following represent the main difficulties with the current scholarship system:

- there are very few scholarships which are specifically for disabled students
- there are extremely few part-time scholarships;
- part-time scholarships are **not** tax exempt, and many students with disabilities find it difficult to study full-time;
- general entry scholarships are usually based on grades (so called 'merit based') but do not recognise that student of merit with disabilities may be hindered from obtaining high grades due either directly or indirectly to their disability

**CAPA recommends (7) that:**

- part-time scholarships (like full-time scholarships) are made tax exempt
- a number of additional APA scholarships are set aside each year for equity groups
- institutions ensure that they have at adequate number (5% would be appropriate) of their scholarships set aside for students with a disability, and that these scholarships are allocated using a system which does not disadvantage students whose grades may not reflect their full potential.

#### *6.4 PELS and unrepayable debt*

The Postgraduate Education Loans Scheme (PELS) replaced the HECS / fees system for postgraduate coursework in 2002. Previously, the majority of postgraduate coursework degree courses attracted full up-front fees, some attracted an up-front HECS payment, and a few were either payable through a HECS loan, or were HECS exempt (ie. free). PELS operates in a similar way to HECS, in that it is a loan repayable through the taxation system once students earn a wage above a set repayment threshold. The big difference between HECS and PELS, however, is that under HECS the Federal government sets the level of HECS 'fee', while under PELS the institution sets the fee. This means that expensive courses—like the Masters of Dental

Health, which can be upwards of \$25,000 per year—can take an exceptionally long time to repay.

Initially, HECS was a flat rate loan. Subsequently, however, the amount of a HECS fee has risen, while the repayment threshold has been lowered. Worse still, HECS is now ‘tiered’. Courses which are thought to be more likely to result in increased earnings for the graduate attract a higher rate of HECS than less commercial courses.

Student representative groups have long argued about the inequity of HECS. HECS is particularly unfair on women, for example, since a break from wage-earning to raise a family will see the HECS debt snowball under the CPI indexed interest, and the woman may well find herself unable to repay the debt in her lifetime.

PELS is a far worse proposition than HECS, as the debts incurred are invariably much larger, and thus much more difficult to repay. CAPA believes that PELS (and HECS) punish students from equity groups, including disabled students. Both HECS and PELS essentially charge students for their education on the basis of often unfounded assumptions about their future earning capacity. Expensive course costs are usually justified on the basis that they will lead to greater earnings in later life.

<p><b>CAPA recommends (8)</b> that PELS be abolished, and replaced with a flat rate of HECS.</p>
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## **7. Putting it all together: the role of the Commonwealth in supporting the education of postgraduate students with disabilities at Australian Universities**

In 1990, the then Department of Employment Education and Training (now DEST), released *A Fair Chance for All: Education that's Within Everyone's Reach*, a document which established a series of targets and strategies for equity groups in Australian higher education. In 1996, the National Board of Employment, Education and Training (NBEET) Higher Education Council released *Equality, Diversity and Excellence: Advancing the National Higher*

*Education Equity Framework*, a document assessing the degree to which the targets of *A Fair Chance for All* had been met, and advising the government on its equity framework for the five years from 1996. The disability-specific findings of that report were far from satisfactory—the paper admits at the outset that it was impossible to properly assess disability participation since no data had been gathered.<sup>24</sup> Again, this situation demonstrates just how damaging the lack of good data is to progress. However, the report did make a number of useful recommendations, including the development of rolling institutional equity plans (see below).

Despite these early successes, funding for disability support at the Federal level is sadly lacking. The only federal funding available is in the form of the Higher Education Equity Program (HEEP), at a total of \$5.9 million for the entire sector. Institutions can apply for grants based on their Disability Action Plans (discussed below), at a core grant component of \$80,000 and additional funding based on the number of students in equity groups at the institution and their success and retention rates. (Again, data collection problems make this method of allocation inappropriate.)

DEST stipulates that “funds are made available to supplement rather than substitute for, the use of operating grants in meeting general equity responsibilities under HEFA and are made available for use at the discretion of the Vice-Chancellor.”<sup>25</sup> CAPA endorses the notion that provision of an environment and pedagogy suitable to *all* students is university’s core business, however, we are concerned that the cost of recovering from a history of institutionalised discrimination needs to be offset with the assistance of the commonwealth—a responsibility the commonwealth is not meeting.

In this section, we wish to comment on the Regional Disability Liaison Network, the institutional Equity Action Plans, and to stress the necessity of

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<sup>24</sup>NBEET 1996, *Equality, Diversity and Excellence: Advancing the National Higher Education Equity Framework*, p.36

<sup>25</sup> DEST Disability funding information web-site,  
<http://www.detya.gov.au/highered/programmes/heep.htm>, 24/4/02

extra funding to ease the difficulties experienced by institutions in funding disability support.

### *7.1 Regional Disability Liaison Network*

Of the HEEP funding, \$800,000 is set aside to offset some of the costs of the now largely disbanded Regional Disability Liaison Network, the main Commonwealth support mechanism for disabled students. Established in 1995, this initiative seeks to assist students with disabilities to successfully pursue tertiary study. The initiative operates through a network of Regional Disability Liaison Officers (RDLO's), who work with students and an institution's own Disability Liaison Officers (where such exist), as well as disability workers outside the tertiary education sector. The aim of the project is to facilitate communication between these groups.

According to DETYA's own evaluation of the RDLO program:

Most disability workers claimed that the number of students with a disability enrolling in higher education was growing while support services were being funded at a constant (or even reduced) level, with a consequent increase in the workload of disability staff. ... The RDLO positions were seen to be well suited to performing [a] coordinating role.<sup>26</sup>

There seems not to be any kind of uniform national approach to the RDLO program. CAPA notes that many institutions have truly excellent internal Disability Liaison Units (for example, Adelaide, Wollongong, James Cook, and Melbourne), however, there needs to be national coordination.

Because some States do not have RDLO's and the RDLO system has largely broken down, we believe it should be redeveloped to ensure the initial aims of the scheme can be fulfilled. Since the coordination role of the RDLO network was seen to be its primary asset.

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<sup>26</sup> DETYA 1999, *An Evaluation of the Regional Disability Liaison Officer Initiative*, [http://www.detya.gov.au/archive/highered/otherpub/rdlo\\_summary.htm](http://www.detya.gov.au/archive/highered/otherpub/rdlo_summary.htm), 22/4/02, p. 15.

**CAPA recommends (9)** that the Commonwealth review the RDLO program with a view to establishing a centralized coordinating body to liaise between institutional disability liaison units.

## *7.2 Institutional Equity Plans*

The Commonwealth, through DEST, monitors institutions' equity strategies. These strategies, or 'Institutional Equity Plans' are published on DEST's web-site.<sup>27</sup> These Plans document the strategies adopted by universities in their approach to equity, and are derived from universities' strategic planning documents (which may include internal plans, as well as the DEST reports). These plans include all equity groups, and the program of provision of equity plans to DEST is an encouraging sign that disability, as well as other equity groups, is beginning to be taken seriously.

In Section 2 of this submission, we argued that the data collected on students with a disability is inadequate. We note with some relief that this problem is becoming apparent to DEST through the Equity Plan reports. The Summary Report notes that:

...a number of universities reported difficulties with identifying students with disabilities. Much of the difficulties seemed to centre on the issue of self-identification. A number of universities experienced significant under reporting of access for students with disabilities. Often students who register with university disability officers have not indicated they had disabilities on their enrolment forms. One study showed that 2.4% of students did not disclose their disability on their enrolment form but did receive services from the disability advisers.<sup>28</sup>

CAPA supports the reporting of institution's Equity Plans to DEST, and the public disclosure of the Plans on DEST's web-site. However, we are

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<sup>27</sup> DEST 2002, *2000-2002 Triennium Equity Plans*,  
[http://www.dest.gov.au/highered/pubs/equity00\\_02/overview.htm](http://www.dest.gov.au/highered/pubs/equity00_02/overview.htm), 24/4/02

<sup>28</sup> *ibid.*

concerned that the reports will not receive the attention they deserve, and that the information provided may not be used to inform broader departmental policy. With this in mind:

**CAPA recommends (10)** that DEST establish a taskforce to analyze institution's plans, and devise progressive policy initiatives ensuring that issues of best practice at individual institutions are implemented throughout the sector.

### *7.3 Funding Disability Support in Higher education*

As mentioned above, CAPA believes that a greater level of funding support from the Commonwealth is necessary to overhaul existing institutional infrastructure to provide a setting in which all students can participate in higher education. Once all institutions are capable of providing education in a manner suitable to students with disabilities, institutions should maintain these standards as core practice using their own central funding. Before this can happen, however, a funding boost is needed.

CAPA would like to draw the attention of the Inquiry Committee to the discussion paper *Students with Disabilities in Higher Education: At whose Cost and What Price*, prepared in 2000 by the University of New South Wales' Equity and Diversity Unit. CAPA applauds the University of New South Wales' initiative in undertaking this study.

The discussion paper was prepared as a precursor to a Policy Forum conducted by the University in October 2000, and provides a detailed analysis of possible funding models for support of students with disabilities in higher education. The paper suggests a number of criteria be used in assessing the merit of funding models for disability support:

- Portability. Funding should be tagged to the student so that if the student moves to another institution, funding follows the student.
- Level of assistance related to need. As it has been argued that the cost of support can vary enormously from student to student, additional funding should reflect actual cost per individual student.

This is the most equitable and cost efficient use of public funding, but it requires individual assessment.

- Administrative efficiency. A new program of assistance should be designed to limit administrative costs. Administration could be devolved as close to the client as possible, utilising either universities or Centrelink offices depending on the program design.
- Respect for autonomy of universities. Universities value highly the autonomy they have in deciding their internal affairs, for example how to spend Commonwealth funding within broad accountability requirements.<sup>29</sup>

CAPA does not wish to put forward a particular funding model at this point, but would encourage sector discussion of possibilities. CAPA believes that it is important that the Commonwealth support, in particular, students with high cost needs, for whom infrastructure may not currently exist at the institution. We see the costs of supporting these students decreasing as new and appropriate infrastructure becomes built into university's existing infrastructure. We note, however, that certain disability groups, such as hearing impaired students, require ongoing high cost support in the form of interpreters and note-takers. It may be that ongoing funding support will be required for such students.

We would particularly like to draw the committee's attention to Model 4 of the UNSW paper:

1.a program of assistance to institutions to provide services to people with disabilities, typically low-cost, with funding to be allocated annually alongside the HEEP allocation. If linked to the number of students with disabilities requiring some form of support (64% of the total), this program could amount to about \$4.5m (at 1992 prices; \$5.3m indexed to 2000 prices); and

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<sup>29</sup> UNSW 2000, Section 8.3,



2.a direct grant to students for the provision of more specialised and costly individual services. These services would need to be determined by the institutions and could be provided by the institutions or by other agencies. To achieve greater accountability and streamline procedures, the student could sign an authority to pay the service provider direct. Based on 1992 estimates and [the] assumption about 64% of enrolled students with disabilities requiring support, the program might total \$13.2m (1992 prices, \$15.4m indexed to 2000 prices).

Total additional funding pa under [this] model would be \$20.7m (indexed at 2000 prices and using 1999 enrolment data for students with disabilities).

Comment:

This model meets three of the four criteria. The only one it would not meet is criterion 3, but if funding were paid direct to service providers on the student's authority, administration would be simplified.

While not recommending a particular funding solution,

**CAPA recommends (11)** that a review group be constituted by DEST to investigate a more centralised approach to the funding of students with disabilities, including special provision for students with high cost needs, and a system of grants for upgrading existing infrastructure.

## Conclusion

Necessarily, this submission provides only a partial overview of the current situation for postgraduate students with a disability. There are many other areas we would wish to comment on, and we look forward to further opportunities to engage with government on disability issues.

In particular, the Term of Reference 1 / a/ iii, focussing on students belonging to multiple equity groups, is of concern. We have only anecdotal evidence about the compounded difficulties such students suffer, and so have not taken the opportunity to comment on these students here. We hope that these

students will not be forgotten in this Inquiry, and would welcome any particular enquiries we may be able to assist with on this issue.

There are three main points, which have been repeated throughout this submission, which CAPA hopes the Inquiry Committee will consider:

1. If the Commonwealth is serious about improving the access, support and the overall experience of students with disabilities studying at the highest levels of education, it must start to collect detailed data on these students;
2. Using such data, and using the best practice initiatives reported in Institutional Equity Plans, DEST must undertake progressive policy initiatives to ensure that minimum standards for the access and equity of students with a disability are guaranteed, and overseen by DEST; and,
3. Extra financial resources are needed to ensure that all institutions are able to proactively upgrade their facilities and pedagogy in a way that is accessible to *all* students.

All these areas require funding. We believe that the current HEEP funding of \$5.9 million for disability support in tertiary education is nowhere near enough. We trust that the Inquiry Committee will make clear to the government the importance of investing in the future of Australians with disabilities by ensuring access to the highest levels of education, and guaranteeing all students the opportunity to reach the highest levels of their **ability**.