

People with Disabilities (NSW) Inc.

Submission to the Senate Employment, Workplace Relations and Education
References Committee

In response to the
Inquiry into the Education of Students with Disabilities

Executive Summary

People with Disabilities (NSW) Inc. (PWD) is a rights based organisation of and for people with disabilities, whose mission is, through individual and systemic advocacy, to ensure the full participation and citizenship of people with disabilities.

PWD believes that the terms of the Inquiry into the Education of Students with Disabilities need to be viewed in the context of human rights. For people with disability, this means:

- Understanding that all aspects of the education system should comply with the *Commonwealth Disability Discrimination Act (1992)* (DDA); and
- Recognising the existence of fundamental disadvantages and inequalities in relation to the provision of education for people with disabilities throughout Australia.

For the purposes of our submission to the Senate Inquiry we have provided comment on four of the terms of reference. In relation to the Terms of Reference (TOR), PWD would like to raise the following points:

- **TOR (i)** PWD argues that the criteria used to define disability should directly follow the legislative definition outlined in the *Disability Discrimination Act (1992)* (DDA). PWD argues that any determination as to the level of 'handicap' of an individual student be undertaken within the DDA definition of disability. PWD is concerned that the level of 'handicap' is measured against the type of disability instead of treating and considering the needs of all students with disability as individuals who may have significantly different education needs despite the shared label of a particular disability type.
- **TOR (ii)** PWD argues that the accuracy with which students' disability related needs are assessed can only be determined by reviewing the needs of every student with a disability individually. It is essential that during any assessment that a person centred approach is taken, that ensures that the individual is directly involved in any assessment. It is also important for need assessment to consider the input of all stakeholders that have a direct involvement in the life of the individual. There must be provision for input from parents and/or guardians, teachers and other professionals and medical staff if required who have a direct involvement in the life and well being of the given individual. The simple premise must be at all times that the individual first, is obviously most conversant in the assessment of their own needs, followed by consultation with stakeholders.
- **TOR (iii)** PWD urges government to consult widely with people from low socio-economic, non-English speaking and indigenous backgrounds and people from rural and remote areas. The needs of each of these groups whilst on one level may share commonalities, such as difficulties meeting the costs associated with education, each have their own unique problems that present barriers to their meaningful participation.
- **TOR (vii)** At the very heart of meaningful participation for students with disability in the education system, is the relationship between teacher and

student and the relationship between the school and student. Teacher training must include a cross disability focus and the benefit of person centred approaches to education. It is important that teacher training have a rights based focus that outlines to teachers the rights of students with disability. We at PWD believe this is one of the most effective ways of changing and enhancing the attitudes of teachers in relation to students with disability. These training components must be compulsory and furthermore must be on-going across the sector. PWD also identifies the need for more specialist teachers who can provide direct support to students with disability in the classroom.

People with Disabilities (NSW) Inc.

People with Disabilities (NSW) Inc. (PWD) is a state peak disability rights and advocacy organisation. Its primary membership is made up of people with disability and organisations primarily constituted by people with disability. PWD also has a large associate membership of other individuals and organisations committed to the disability rights movement.

PWD was founded in 1981, the International Year of the Disabled People, to provide people with disability with a voice of our own. We have a cross disability focus – we represent the interests of people with all kinds of disability. PWD is a non-profit, non-government organisation.

PWD is part of a loose national and international network of people with disability which comes together as Disabled People's International.

The mission of PWD is to be the leading New South Wales disability peak organisation of and for all people with disability, advocating in highly effective ways for the realisation of a socially just, accessible and inclusive community in which the human rights, citizenship, contribution and potential of people with disability are respected and celebrated.

Overview

PWD strongly believes that education is a right not a privilege and as such that education be accessible to all people living in Australia, be they citizens or non-citizens as outlined in Article 26 of the Universal Declaration of Human Rights that Australia is a signatory to. PWD believes that the application of this principle still remains a long way off for many students with disability. Some students with disability contend with multiple barriers to their participation. These include attitudes from education providers at all levels, from the government administrator in some cases, to the teacher in a classroom to the attitudes of some parents and other stakeholders within the education sector and the attitudes of peers. They also contend with attitudes often manifested in stereotypes within society, that question the right of students with disability to be a part of a class room environment.

Students with disability face many other barriers, including accessibility. This can take many forms, including the ability to physically access premises, the accessibility of school curricula, by way of the presentation of information in accessible formats and the ability to access schools via effective means of transport.

Many students with disability face the difficulty of being able to meet the costs of education. This may include the inability to pay school fees if the nearest and most appropriate school for them may be fee based and the inability to meet other costs associated with schooling. Some students with disability cannot access the necessary adaptive technologies that would enable them to participate. Some students with disability face an education system that does

not cater effectively for them culturally on top of the considerations of their disability.

Whilst there has been some progress for students with disability in relation to their engagement with the education sector, the fact remains that students with disability are under represented and far less likely to be able to progress through the education system to a tertiary level.

Terms of Reference

(i) the criteria used to define disability and to differentiate between levels of handicap,

The appropriate criteria to define disability is contained within the *Disability Discrimination Act (1992)*. The reason for this definition being the most appropriate is that it includes a broad definition of disability and importantly provides for a legal definition in a discrimination context. PWD refers the Inquiry to Section 4 of the *Disability Discrimination Act (1992)* that defines disability as

- (a) total or partial loss of the person's bodily or mental functions; or*
 - (b) total or partial loss of a part of the body; or*
 - (c) the presence in the body of organisms causing disease or illness; or*
 - (d) the presence in the body of organisms capable of causing disease or illness; or*
 - (e) the malfunction, malformation or disfigurement of a part of the person's body; or*
 - (f) a disorder or malfunction that results in the person learning differently from a person without the disorder or malfunction; or*
 - (g) a disorder, illness or disease that affects a person's thought processes, perception of reality, emotions or judgment or that results in disturbed behaviour;*
- and includes a disability that:*
- (h) presently exists; or*
 - (i) previously existed but no longer exists; or*
 - (j) may exist in the future; or*
 - (k) is imputed to a person.*

The philosophy that underpins differentiation between levels of 'handicap' must be one that relates to inclusion and accommodation as opposed to a view that attempts to differentiate between whom is appropriate to access the education system. Furthermore differentiation should not be focused purely on the level of 'handicap' but instead on the level of support or accommodation required to ensure meaningful participation.

Allocating a level of 'handicap' to a student with disability creates a label for that student that in some cases may remain with them for their whole 'education' life. Level of 'handicap' does not consider episodic illnesses, or the rehabilitation of any given student. It inherently suggests that any given student with disability is only ever contained within a particular level that is arbitrarily assigned.

Fundamentally the most effective way of addressing this issue is by engaging directly with the student with disability and those stakeholders that are directly involved in the life of that student. It is of greater benefit to the student and the education provider alike to engage directly with the student, then to assign medical professionals who may not have an intimate knowledge of the

students disability to measure the special consideration needs of any given student with disability.

Recommendations

- That education service providers throughout Australia comply with the *Disability Discrimination Act (1992)* at all times.
- That new approaches be taken by all education providers throughout Australia that identifies ways of accommodating students with disability as opposed to assigning students a level of 'handicap'.

(ii) the accuracy with which students' disability related needs are being assessed

PWD asserts that it is only possible to accurately assess the needs of students with disability by directly engaging the said student and relevant stakeholders that have a personal relationship with the said student. This is because each student with disability will have individual needs that cannot be categorised simply by type of disability.

PWD asserts that where the needs of a student with disability are assessed within the framework of a panel of professionals, for example, in situations where applications for special consideration are considered. That a person with disability and/or an advocate has a place on such a panel to ensure that the needs of students with disability are appropriately represented.

In addition, education providers at all levels must provide their service delivery in a flexible manner. This is particularly applicable to students with disability, whose needs can often change over time as they progress through the different levels of education. Furthermore flexible service delivery must keep pace with new advances in technology that make for a more accessible education environment.

Recommendations

- That all education providers throughout Australia develop person centred approaches that ensure those students with disability and or stakeholders that have a personal involvement with the student are directly consulted about the students disability related needs.
- That people with disability and advocates have a place on any assessing mechanism that does not directly involve a student with disability, such as the development of curricula, the guidelines for assessment and the evaluation of special consideration for assessments.
- That education administrators provide their service in a flexible manner that keeps pace with new technologies.

(iii) the particular needs of students with disabilities from low socio-economic, non-English speaking and indigenous backgrounds and from rural and remote areas

Students with disability from low socio-economic backgrounds face the serious disadvantage of not being able to meet the costs associated with having a disability and the costs of an education. This manifests in the inability to be able to purchase resources to support with their education. Students with disability from low socio-economic backgrounds may be reliant on schools in their area to provide necessary resources to enable them to access the education system.

For some students with disability the costs of transport particularly if they require accessible transport that is not provided publicly or via subsidy face a very serious burden. Some students with disability from low socio-economic backgrounds are reliant on the ability of their parents and or guardian to be able to meet the costs of their education. If students with disability whose parent/s or guardian are not employed then the student is reliant on funds provided by government which in many cases particularly if the student has high support needs do not adequately cover the costs of education on top of other lifestyle considerations.

Recommendations

- That detailed research be undertaken that directly assesses the costs involved with education for students with disability and how this correlates with students with disability from low socio-economic backgrounds.
- That an audit be undertaken at all levels of education that identifies what assistive technologies are needed to make education more accessible to students with disability. This audit needs to be cross referenced by regions to identify where needs are most immediate.

Students with disability from non-English speaking backgrounds often face multiple barriers to participation in education in Australia. Some people from non-English speaking backgrounds have a sense of isolation particularly in environments that do not readily accommodate their language requirements and where they may have difficulty in associating with people from their own culture. Obviously students with disability face problems associated with the language barrier and their level of disability may make it difficult to learn new language. This means that flexible and innovative teaching methods need to be applied. Furthermore students with disability from NESB communities face problems associated with a lack of availability of services in appropriate languages and a lack of interpreters.

Some students with disability from non-English speaking backgrounds are simply not aware of their rights, particularly in relation to disability discrimination and they're right to access education.

Included within the particular needs of students with disability from NESB communities are the needs of children with disability living in immigration detention centres. To put it simply the education needs of these children with disability is not being met. Indeed PWD supports the Australian Human Rights and Equal Opportunity Commission's finding that the Department of Immigration and Multicultural Affairs is in violation of several UN Conventions

including the Convention on the Rights of the Child (CROC) in this regard, of which Australia is a signatory. Within the CROC there is the stated right to an education. It is not simply a matter of saying that education is being provided, but that education provided must be accessible to students with disability and held in an environment that is conducive to learning.

Recommendations

- That government consult widely with disability advocates from NESB communities.
- That an independent assessment be undertaken that assesses the education needs of children with disability living in immigration detention.

Indigenous students with disability face many barriers that seriously impact on their ability to engage with the education system throughout the country. Some of these barriers include issues that are wider in their scope than simply the education system itself. In some indigenous communities the need to survive and meet each day as it comes presents a more immediate concern than long term considerations like going to school or university. This is particularly the case in communities where there is the disintegration of cultural values due to substance abuse, violence and other detrimental factors. The ability of indigenous students with disability to engage with the education system can only be attained by addressing the wider issues that impact on indigenous communities.

Many indigenous communities have a deep distrust of bureaucracy built on in some cases generational experiences of government intervention in their lives that has been detrimental to their culture. This is also a significant contributing factor to the under-representation of indigenous students with disability.

Some indigenous students with disability may also face a barrier because of they face an education system that does not recognise 'Aboriginal English' and that some indigenous students may not use English as a first language.

These wider implications raise the very serious concern for PWD that some indigenous students with disability may not be engaging with the education system at all. This view is of further concern when it is considered that there is no reliable statistical data on disability within indigenous communities let alone data on indigenous students with disability and their enrolment in education at any level.

Furthermore the teaching environment, curriculum and how curriculum is taught can present serious barriers. Teaching methodologies in some cases are not culturally appropriate and this can seriously effect the willingness of indigenous students to engage with the education sector.

PWD observes that there are simply not enough Aboriginal teachers within the education system and of those teachers who are Aboriginal and currently teaching there appears to be high demands placed upon them.

A further contributing factor to the under-representation of indigenous students with disability within the education sector is the fact that some indigenous students with disability have to travel a long way from home to be able to attend school and in some cases significant distances to find an accessible school. This means that some indigenous students are attending schools away from their community which means that they are away from their culture and places of significance that are important to the identity of the student.

Clearly there is much work to be done by government. However this work must consult directly with indigenous people with disability and indigenous advocates. There must be innovation, flexibility and direct consultation for this issue to be properly addressed and PWD calls for the establishment of a National research project to assist in redressing the continuation of these discriminatory and harmful practices.

Recommendations

- That the National Indigenous Disability Network be funded to research the level of disability in indigenous communities. Furthermore that this research address such specific areas as access to education for indigenous students with disability. It is essential that this project be undertaken by indigenous people for indigenous people.
- That a coordinated plan to recruit more Aboriginal people to teaching be instigated at all levels of government and by all states and territories.

(vii) teacher training and professional development

An integral part for any student with disability engaging with the education system is the on the ground relationship between teacher and student. Students with disability must feel that their contribution is valued. Conversely the teacher must feel that they are equipped to be able to provide meaningful participation for the student.

PWD believes that the approach to be taken has two components. Firstly there is the need to train current teachers who may not have had detailed training when they were completing their studies. Secondly there is the opportunity to ensure that all new teachers are well versed in the needs of student with disability.

It is essential that this training have a cross disability focus with a rights based approach. PWD believes that it is of great importance that teachers in their professional development be widely versed in the principles of education as a human right, which will present the opportunity for teachers to take on an advocacy role themselves for students with disability.

References

Assistive Technology; Meeting the needs of students with disabilities in post-secondary education, Institute of Disability Studies

Center Yola, *Integration of Children with Disabilities into Regular Schools; A Naturalistic Study Stage 2 Report May 1989*, Macquarie University Special Education Centre, 1989

Emerging Themes; National Inquiry into Rural and Remote Education, Human Rights and Equal Opportunity Commission, March 2000.

Flynn Christine, *Disability Discrimination in Schools; Students and parents speak out*, National Children's & Youth Law Centre, April 1997

Franklin Barry M, *Learning Disability; Dissenting Essays*, The Falmer Press, United Kingdom, 1987

NSW Journal of Special Education, Number 11, September 1989 – March 1990, Australian Association of Special Education Inc. (NSW Chapter)

Staying There; Increasing the retention and success rates of equity students, Victorian Co-operative Projects Higher Education Students with a Disability Committee, 1999.

Students with Acquired Brain Injuries in Primary & Secondary Schools; a project funded by the Commonwealth Department of Employment, Education & Training, Head Injury Council of Australia, Education & Training, Commonwealth of Australia, 1995.

Who's Going to Teach My Child; A guide for parents of children with special learning needs, NSW Department of Education & Training, 2001.

