

**Submission by the University of Sydney  
to the Senate Employment, Workplace Relations & Education  
References Committee**

***Inquiry into the Education of Students with Disabilities***



The University of Sydney is pleased to respond to the invitation of the Senate Employment, Workplace Relations and Education References Committee for individuals or organisations to express views on some or all of the terms of reference of the Committee's *Inquiry into the Education of Students with Disabilities*.

The University of Sydney's submission addresses the Committee's Terms of Reference as follows:

- (1) **Inquire into the education of students with disabilities, including learning disabilities, throughout all levels and sectors of education, with particular reference to:**
  - (a) **whether current policies and programs for students with disabilities are adequate to meet their education needs, including , but not limited to:**
    - i) **the criteria used to define disability and to differentiate between levels of handicap**

The application of State and Commonwealth disability discrimination legislation to the tertiary sector requires the University of Sydney to adopt a very broad definition of the term 'disability' in its dealings with students. The University's Disability Service Office deals with students with a vast range of physical, and psychiatric or psychological disabilities, resulting in complex and technical discussions about reasonable accommodations and the application of anti-discrimination legislation to a student's individual situation. The capacity of academic staff to accommodate the reasonable requests of students without the expert assistance of the Disability Services Office is extremely limited, given the potential for costly and public litigation. The capacity of the Disability Services Office to provide timely advice and assistance in every student's case, given the large number of students with disabilities, is also extremely limited. These difficulties are compounded by issues relating to mental health and learning disabilities which, depending on the educational discipline, can cause behavioural, psychological and learning difficulties that go to the core of academic endeavour. The absence of clear criteria and guidelines in respect of education and disability often makes it difficult to distinguish, in legal terms, between a student's disability and an unrelated inability to meet the demands of a University course.

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

The University of Sydney University Disability Services Office relies on documentation from a wide range of health care providers including specialists to determine an individual student's educational requirements. In consultation with the Faculties, the Disability Services Office makes recommendations regarding accommodations appropriate for each individual student based upon the disability needs identified by the documentation provided and the core requirements of the course in which the student is enrolled. This is a high cost activity for the University.

- 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 from the equity categories above often experience particular challenges. In many cases students have multiple difficulties. Low socio-economic status compounds the disadvantage of any equity group. All equity groups may experience difficulty locating accessible and affordable accommodation in a timely manner.

Students from low socio-economic background may have difficulty in purchasing computers and assistive technology for home use, particularly for assignment preparation and internet based research. Other additional personal, study and travel costs associated with the student's disability may be difficult for the student to meet.

Students from non-English speaking background may experience difficulty communicating with academic and general staff of the University due to language and cultural barriers. It can be difficult for the Disability Services Office to determine the degree to which problems experienced by a student from non-English speaking background are due to disability or to language or cultural barriers.

Rural and isolated students making the transition from a rural background to the city to study may experience cultural shock. Rural and isolated students have additional costs as they frequently travel to visit their family. Rural and isolated students who move to the city to attend University also lose the support of their family and local community support in the management of their disability.

Another disadvantaged group are the mature-aged students attending University seeking to retrain due to injuries or illness preventing them from continuing in their original profession. This is an expanding group who are also coming to terms with having an ongoing disability.

#### **iv) the effectiveness and availability of early intervention programs**

The University of Sydney surmises that the significant increase in students enrolling from school into University in part results from the mainstreaming and the interventions taking place within the school system. The University of Sydney finds, however, that many students coming directly from school have little understanding of the impact that their disability has on their ability to study.

Of particular concern is the very limited exposure that students appear to have to assistive technology whilst at school. This is particularly the case with students with a vision or learning disability. The University of Sydney's experience is that students within the school system are often provided with intensive staffing support that does not encourage independent management of their condition. The lack of experience in the independent management of their disability and study may result in significant difficulties in the University environment.

It appears that a number of students are being diagnosed with learning disabilities for the first time following enrolment at a tertiary institution. This is concerning given it would appear that there has been strong indication of these conditions throughout the school years.

#### **v) access to and adequacy of funding and support in both the public and private sectors**

Funding to universities for the support of the rapidly growing number of students with disabilities enrolling is inadequate. No funding is provided by the Commonwealth Government or State Governments for students with disabilities enrolled at Universities despite the significant cost to Universities in accommodating these students. The Federal 2001 Government Budget provided \$37 million from July 2002 to improve opportunities for people with disabilities in vocational education and training and higher education. To date it is not identified how these funds are to be distributed and discussion has only focused on students with high cost support needs, neglecting to address the cumulative high cost of providing notetaking, equipment, physical access, IT and other supports to accommodate a wide range of disabilities.

**vi) the nature, extent and funding of programs that provide for full or partial learning opportunities with mainstream students**

Not applicable for University students

**vii) teacher training and professional development**

The University of Sydney provides staff development for both academic and general staff within the University. Raising awareness of the legislative requirements and the needs of students with disabilities is recognised as important. The use of web based information to provide access for staff to information as the need arises is seen as an appropriate way to meet the needs of staff for information and support in seeking to appropriately accommodate students with disabilities.

**viii) the legal implications and resource demands of current Commonwealth, State and Territory legislation**

The resource demands of State and Commonwealth disability discrimination legislation are extensive and growing. The University has been the subject of numerous complaints of disability discrimination that have been found to be misconceived or lacking in substance. By way of example, the University is presently defending a former student's appeal to the High Court from a Federal Court decision in respect of a disability discrimination complaint based on anxiety that has been found to be lacking in substance at every stage of the appeal process. The considerable financial sum invested in defending that complaint could clearly have been more efficiently and fairly allocated to the provision of reasonable accommodations for students with a disability. The University has concerns about existing State and Commonwealth anti-discrimination legislation with respect to complainants with a learning, psychological or psychiatric disability, in particular, the absence of an express legal defence to a complaint of disability discrimination in circumstances where:

- a student's disability poses a risk to other students or staff, such that a university is compromised with respect to its obligations under occupational health and safety legislation and common law duties of care;
- a student is unable, as a consequence of their disability, to meet the inherent requirements of an educational course; or
- accommodating a student's needs would cause 'unjustifiable hardship' to the University after admission.

**(b) What the proper role of the Commonwealth and States and Territories should be in supporting the education of students with disabilities.**

The University strongly supports the coordination and communication role played by the State and Commonwealth governments in respect of students with a disability. The University believes this role could be enhanced by the development of clearer policies on accommodating students with a disability, and by increased government funding to support university initiatives designed to meet student needs.

Professor Gavin Brown  
Vice Chancellor & Principal  
The University of Sydney