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**Submission to the Senate Inquiry**

**On**

**Education of Students with disabilities**

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## **Physical Disability Council of Australia**

The Physical Disability Council of Australia (PDCA) is the national peak organisation representing the interests and views of people with physical disability across Australia. PDCA is run entirely by and for people with a physical disability and is funded by the Federal Government as a peak disability organisation.

PDCA does not discriminate on the basis of disability and does not endeavour to determine what is or is not a physical disability, therefore our membership is open to anyone who wishes to join. Currently we have around 2500 members nationwide.

## **Physical disability in Australia**

According to the *Australian Bureau of Statistics 1993 Survey of Disability, Ageing and Carers*<sup>11</sup>, there were over five (5) million Australians who had one or more impairments or long-term health conditions. Whilst many of these people were not restricted by their condition, 3.2 million had one or more disabilities (18% of population) and 2.5 million people (14% of population) had a handicap as a result of their disability. The most common type of handicap involved mobility limitations.

Over half of all people with a disability had a physical impairment, either alone (30%) or in combination with other impairments (27%).

*ABS - Disability and disabling conditions. 4433.0 1993, page 1*<sup>12</sup>

More than 1 in 10 Australians – over 2 million people – reported one or more physical impairments or disabling conditions, resulting in one or more activity limitations, in 1993. Almost 4% of Australians aged over 5 years also had a severe or profound handicap, that is, they always or sometimes needed personal assistance or supervision with daily living activities such as self care, mobility or verbal communication.

The definition and prevalence of physical disability in Australia, ...shows that in 1993 Arthritis was the most common physical disabling condition, affecting 1 in 20 people. It affected more women than men.

Diseases of the circulatory system, for example, heart disease, thrombosis and cardiovascular diseases, were the second most common cause of physical disabling conditions.

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<sup>11</sup> *Australian Bureau of Statistics 1993 Survey of Disability, Ageing and Carers*

<sup>12</sup> *ABS - Disability and disabling conditions. 4433.0 1993, page 1*

## Criteria used to define disability and to differentiate between levels of handicap

Australian Institute of Health and Welfare (AIHW):<sup>3</sup>

The Australian Institute of Health and Welfare have undertaken research in the definitions of disability and in a recent chapter “1.3 Variation in administrative definitions” stated the following:

“Even if it is accepted that definition and classification are useful, the debate is not over. Different purposes in defining or measuring may lead to different definitions and measures. People with a disability, who may have lifelong experiences which require some type of social response, may require assistance from a number of programs and professional disciplines, each of which may develop different ways of perceiving disability. And within each of these programs, there can be a tension between the ways in which the person involved and the professionals perceive disability.

A multi-disciplinary workshop in 1994 revealed the wide diversity among purposes and approaches in defining and measuring disability (AIHW 1994b). Different viewpoints represented at the workshop were provided by:

- people representing people with a disability, whose purpose in measuring disability is often to indicate the level of need for services and to better match the individual’s self-identified goals and abilities with the service offered;
- providers of support services, whose purposes in measuring disability include providing supports appropriate to the needs and abilities of services users, prioritising the use of resources, and comparing the resources and successes of their service with those of other services;
- funders and planners of broad disability programs, whose primary purposes in measuring disability are to assess the relative need for resources among groups of people with differing disability types and service needs, and to identify unmet needs;
- administrators of legislation outlining the rights of people with a disability, who may prefer to use broad definitions of disability to protect people who may be disadvantaged by exclusion;
- people responsible for income security policy, including the social security and compensation fields, who may prefer definitions and measures which clearly define the criteria for, and limit the number of people included in, their programs;
- clinicians, whose need may be to gauge the nature and severity of disability more precisely in order to devise the most appropriate intervention, or to compare the efficacy of various treatments;
- national and international statisticians, whose purpose in measuring disability is to be able to compare data across service types and across national and international boundaries; the measure of disability may then be an outcome measure of an intervention (often a health or community service intervention), an indicator of need for support or treatment, or a benchmark which enables the collation or comparison of data from several different sources.”<sup>1</sup>

### 1.5 The drive towards consistency and reliability in Australia

A number of reports of national significance have suggested the need for greater consistency of concepts and definitions in the disability field. The Commonwealth/State Disability Agreement (CSDA) of 1991<sup>4</sup> was set out in the context of the need to exchange data among the Commonwealth and the States.

A report of the Senate Standing Committee on Community Affairs (1992)—*Employment of People with Disabilities*—recommended the use of the same terminology, definitions and measures of disability by relevant departments and by the Australian Bureau of Statistics. The first biennial

<sup>3</sup> 1997 The Definition of Disability in Australia: Moving Toward National Consistency

<sup>1</sup>

<sup>4</sup> Commonwealth State Disability Agreement 1991

report of the AIHW on the welfare area, *Australia's Welfare 1993*, discussed the need for greater consensus on concepts, as a precursor to being able to relate disability definitions and to relate and improve administrative data collections (AIHW 1993).

The 1994 interim report by Professor Peter Baume, reviewing the Commonwealth's Disability Services Program, recommended work to standardise definitions across Commonwealth government departments (Baume & Kay 1995). The Commonwealth Disability Strategy recommended that the Disability Task Force, in consultation with the AIHW and the ABS, should develop a framework for ensuring that consistent core disability definitions and data collection methods are used in all Commonwealth government collections (Office of Disability 1994). The independent evaluation of the CSDA also made recommendations concerning the definition of disability (Yeatman 1996).

The goals enunciated by some of these reports mention 'consistent core definitions', 'comparability', 'relating and reconciling standard definitions'. It is not generally suggested that the goal should be a single, standard definition, but rather that the definitions and data items used in different service collections should be able to be related to each other. Organisations providing services collect only those data needed for the administration of the service. In the case of mainstream services, such as those provided by the Commonwealth Department of Employment, Education, Training and Youth Affairs, self-identification of disability is voluntary.

Thus sources of variation will remain, for instance, as to the scope of services and the level of support needed by client groups. What should become clearer, if the goals of this paper are met, are the ways in which the data relate. It may be possible to describe the clients of Department of Employment, Education, Training and Youth Affairs (DEETYA) employment services and social security recipients, for instance, in terms which enable the differences between the groups to be defined and quantitatively described.

Most recently the report on the evaluation of the CSDA (Yeatman 1996) documents similar concerns about disability definitions. The demand study carried out by the AIHW to support the evaluation suggested several steps to move towards a solution (Madden et al. 1996), outlining four areas for improvement: • increased effort to move towards more consistent definitions of key terms and data items, including disability itself, so that the main relevant data collections become more relatable. Such work should include working on data at the 'borders' of disability to make health, epidemiology and disability more consistent and mutually relevant. This area of improvement underpins the other three;

- enhancements to the next ABS survey on disability in the Australian population;
- enhancements to State and Commonwealth administrative information systems for disability support services, accounting for emerging administrative changes; and
- enhancements to administrative data systems for relevant mainstream services, perhaps by the development of 'modules' or small packages of data items which would clarify the relationships among disability service collections.

The need for better data and for better infrastructure, including common or at least relatable definitions, is thus widely recognised in the disability field in Australia. Such improvement is essential to enable the better estimation of levels of people's need for, use of and outcomes from disability services in Australia.

#### The International Classification of Impairments, Disabilities and Handicaps (ICIDH)<sup>5</sup>

The best known international definition of disability is that of the World Health Organisation's (WHO) International Classification of Impairments, Disabilities and Handicaps.

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<sup>5</sup> The International Classification of Impairments, Disabilities and Handicaps (ICIDH)

The international definition has provided a recognised framework for definitions in Australia now in use, because the three concepts of the 1980 ICIDH—impairment, disability and handicap—are widely recognised (for example, AIHW 1994b).

This definition is described in the following press release issued in November 2001::

“A new World Health Organization (WHO) publication to classify the functioning, health and disability of people across the world challenges mainstream ideas on how we understand health and disability. The ICF (International Classification of Functioning, Disability and Health), released today, has been accepted by 191 countries as the international standard to describe and measure health and disability.

Using the ICF framework, WHO estimates that as much as 500 million healthy life years are lost each year due to disability associated with health conditions. This is more than half the years that are lost annually due to premature death. The ICF provides a common metre about this immense problem.

While traditional health indicators are based on the mortality (i.e. death) rates of populations, the ICF shifts focus to "life", i.e., how people live with their health conditions and how these can be improved to achieve a productive, fulfilling life. It has implications for medical practice; for law and social policy to improve access and treatment; and for the protection of the rights of individuals and groups.

ICF changes our understanding of disability which is presented not as a problem of a minority group, nor just of people with a visible impairment or in a wheelchair. For example, a person living with HIV/AIDS could be disabled in terms of his/her ability to participate actively in a profession. In that case, the ICF provides different perspectives as to how measures can be targeted to optimize that person's ability to remain in the workforce and live a full life in the community.

The ICF takes into account the social aspects of disability and provides a mechanism to document the impact of the social and physical environment on a person's functioning. For instance, when a person with a serious disability finds it difficult to work in a particular building because it does not provide ramps or elevators, the ICF identifies the needed focus of an intervention, i.e. that the building should include those facilities and not that the person be forced out of the job because of an inability to work.

ICF puts all disease and health conditions on an equal footing irrespective of their cause. A person may not be able to attend work because of a cold or angina, but also because of depression. This neutral approach puts mental disorders on a par with physical illness and has contributed to the recognition and documentation of the world-wide burden of depressive disorders, which is currently the leading cause, world-wide, of life years lost due to disability.

The ICF is a result of a 7-year effort involving the active participation of some 65 countries. Rigorous scientific studies have been undertaken to ensure that the ICF is applicable across cultures, age groups and genders so as to collect reliable and comparable data on health outcomes of individuals and populations. WHO is presently carrying out world-wide health surveys to collect data based on the ICF.”

**The full classification can be viewed on the Internet on: <http://www3.who.int/icf/icftemplate.cfm>**

#### The ABS Survey of Disability, Ageing and Carers<sup>6</sup>

These surveys are conducted every five years and are an important source of national data on disability, covering both rural and urban areas in all States and Territories. The 1993 survey gathered information from a sample of 15,957 households and 378 'special dwellings' (representing some 42,215 people) as well as from 593 establishments (representing 4,816 people). Information

<sup>6</sup> The ABS Survey of Disability, Ageing and Carers<sup>6</sup>

obtained by personal interview included 'disabling condition', disability and presence, area and severity of 'handicap'. There were also questions on assistance needed and received for specific activities, and informal and formal main providers of assistance.

The concepts underpinning the ABS disability survey are those of the 1980 ICIDH, and this relationship has been pivotal to data analysis, for such reports as the AIHW's demand study (Madden et al. 1996).

#### Disability Discrimination Act 1992<sup>7</sup>

The DDA has the following definition of disability for the purposes of legislation:

**disability**, in relation to a person, means:

- (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.<sup>3</sup>

#### **Accuracy with which students' disability related needs are being assessed**

At the commencement of negotiations to develop a DDA Standard in Education, one of our State Physical Disability Councils (PDC NSW) circulated a questionnaire to their constituent members throughout NSW. One question in particular indicated that disability related needs are not being assessed or addressed in education and often result in a complaint of discrimination.

#### The question asked:

Have you ever experienced discrimination on the grounds of disability against any educational authority?

#### Response:

Almost all the families with children with which the PDCN has had contact have experienced discrimination on the grounds of disability. These have included discrimination in enrolments, choice of schools, services provided by schools, behaviour by principals, teachers and other students and in outcomes expected.<sup>9</sup>

The response to the MCEETYA Task Force as a result of this questionnaire reflected the position of PDC NSW at that time. This response clearly indicated that there was a great deal of dissatisfaction in the disability sector especially in relation to areas of discrimination:

*"Two recently [1997] published studies (Disability Discrimination in Schools 1997 and the McCrae Report on Special Education in NSW 1996) confirm the reality of this discrimination and the*

<sup>7</sup> Commonwealth Disability Discrimination Act 1992

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<sup>9</sup> Discussion Paper on Education Standards – Physical Disability Council of NSW. 1997

*distress it continues to cause students with disabilities and their families. These studies focus on students of school age, the compulsory school sector, which bears the greatest responsibility for the education of most students with disabilities where potentially the most discrimination occurs. It is acknowledged, however that discrimination remains widespread in other educational sectors especially within the private vocational sector. It is imperative that education standards, if developed address the elimination of discrimination on the grounds of disability as their primary focus.”*<sup>10</sup>

## **Needs of students with disabilities**

“The need to shift from a paradigm of discrimination to a paradigm of inclusion.

Disability discrimination in education is unlawful. The challenge to eliminate disability discrimination requires a conscious acknowledgment of the many years of history in the development of a system of discrimination in education suffered by and imposed upon people with disability and their families.

Over a century of investment has gone into creating the physical and intellectual infrastructure that now needs to be systematically reframed. This is the challenge for Australia and should be the focus of a DDA Education Standard.

Additionally, very few people with disabilities, their friends and families have been satisfied to date with the DDA complaint system. It requires long and expensive fighting in courtrooms just to get an education free from disability discrimination.

Unless current education systems undertake change towards a non-discriminatory policy and practice, then disability discrimination will continue to be an everyday experience for the majority of students with disabilities in Australian educational settings.

The international community, through UNESCO, has developed the notion of Schools for ALL and have stated in the Education for All 2000 Report that:

*“The development of inclusive schools as the most effective means for achieving education for all must be recognised as a key government policy and accorded a privileged place on the nation’s agenda.”* (UNESCO, 2000)<sup>12</sup>

This recognises that we must develop education systems that are non-discriminatory – as a matter of public importance.

From a paper provided to the DDA Standards Project experiences from Australia and overseas have shown that the following principles are fundamental to overcoming the problems of discrimination in education. These principles needed to be incorporated into the DDA Education Standard with legal backing, support and monitoring to ensure that education providers and governments do not back away from their responsibilities to people with disabilities under the DDA and the DDA Education Standard. Likewise education providers should undertake a commitment to providing best practice examples of the inclusion of people with disabilities. These include:

1. People with disabilities must be included in the general education classes, programs and facilities to the maximum extent possible. Mere presence in the classroom is not sufficient and does not result in true class interactions - the person must be fully involved in the curriculum and all social aspects of the educational experience.

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<sup>10</sup> Draft response to MCEETYA Discussion Paper – October 1997 PDC NSW.

<sup>11</sup> Education for All 2000 Report UNESCO

2. Educational institutions and providers must provide supplementary aids and services (e.g., teaching assistants, sign language interpreters, technological advanced equipment such as computers, special transportation where necessary, therapy, revised curricula, positive behaviour management plans, etc.) to support people in general education settings and to ensure that educational benefit accrues to the person.
3. People with disabilities or their family members where appropriate must be permitted to provide input into program and placement decisions.
4. Resources (supplementary aids and services) go with the person not the program.
5. Inclusion and other decisions made on the basis of the individual person's needs and the existence of supplementary aids and services and not the person's category or level of disability.

Internationally there is documented evidence that students with disabilities should have the same inherent rights as other students. These are outlined in a number of International Treaties, Covenants and Statements which are summarised in a background paper prepared by the DDA Education Standard Reference group. The Salamanca Statement with the supporting documents provide an excellent document to examine when taking up the consideration of what the Rights of Students are.

Outcomes and comments from forums and or workshops identified by the DDA Education Standards process has been documented as follows:

- Tasmania stood out as a centre of excellence, with obvious dedication to support students with disabilities in the school of their choice.
- People do not want an education standard that continues the endemic discrimination which occurs in education, and are therefore suspicious of the standard in its current form.
- People want an education standard which is a strong standard and will bring about system change in education systems.
- There was overwhelming frustration with the current complaint processes.
- People wanted to explore all possible compliance options, as well as a standard, to ensure that systems changed to accommodate students, rather than the current practice, a demand that students accommodate the system.
- People wanted more information on how good practice has been implemented overseas.
- TAFE and tertiary sectors were unhappy with the focus in the position paper on compulsory education. We will require more information from those with experiences in these sectors so that we can advocate in these areas.
- We were disappointed that few students from Tertiary and TAFE sectors attended the forums, and hope that they find a venue to comment on the standard, and have the role of senior partners with staff who work with students with disabilities in these sectors.
- We need to improve the dissemination process for education consultations to the grass roots parent and student level especially when consultations have been planned and organised.

- Most forums were well attended by educators, service providers and Disability Liaison Officers; people who have directly experienced discrimination were often conspicuously absent or did not identify.
- The forum at Pathways expressed concern that the Draft Standards appeared focused on compulsory education and that there appeared to be no consideration towards the 'Code of Practice' which had been developed within the tertiary sector for students with disabilities.<sup>13</sup>

Another document that highlighted the inadequacy of the education system for people with disabilities is a discussion paper, prepared for the DDA Standards Project by Robert Jackson, James McAfee and Judith Cockram in 1999 which highlights the following:

“In November 1997 the Disability Discrimination Act Standards project reported to the MCEETYA Task force of the results of a survey they had carried out with individuals and organisations involved in education for people with disabilities. Their survey received a total of 1689 responses of which 1307 were from a parent of a child with a disability of compulsory school age. Since the initial report, a similar number of additional responses have been received and while they have not been analysed in detail, the responses are consistent with the original sample.

Over 1220 of the initial 1307 reported experiencing some form of discrimination based on disability, and most of these believed that discrimination based on disability is endemic and systemic to education systems in Australia. The overwhelming number of responses expressed frustration and alienation from the mainstream education system, with many reporting a deliberate campaign by education systems and administrators to exclude them from participating in mainstream education. Even where children with disabilities were permitted to attend mainstream schools, many parents believe that their child was being 'baby sat' rather than educated. 1257 of the respondents indicated a belief that that at the very least their child should be able to access the public school system but could not do this satisfactorily at the moment.

Of the 1307 individual respondents, 301 have lodged a complaint about discrimination in education under either the DDA or their State/Territory anti discrimination legislation. Only 2 of these were satisfied with the outcome. The remainder, 299 respondents, indicated they were unhappy with the outcome because they:

- only settled because they couldn't afford to continue either financially or emotionally;
- were concerned about the lengthy hiatus in their child's education;
- felt they were getting nowhere with the process;
- original outcome was okay but it broke down at a transition point or education provider reneged on agreement.

All 301 respondents indicated that they would never lodge a complaint again, no matter how bad things got.

A further 1300 individuals reported experiencing discrimination in education based on their child's disability but indicated that they had not lodged a complaint about discrimination in education because they:

- knew someone who had;
- had heard it was a lengthy and costly exercise;
- had tried to lodge but the disability legal service were unable take their case;
- only had access to a community legal service and somebody in that service was related to someone at the local school;
- had tried to lodge but HREOC had advised that the case was unlikely to be successful;
- relied on the goodwill of the local community and did not want to jeopardise that relationship;

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<sup>12</sup> DDA Standards Project Position Paper

- were not sure what their rights were.

Only 76 individuals reported no experience of discrimination in education based on their child's disability.

In general it seems clear that this group feel alienated from the mainstream education sector. Even when individuals manage to get their children enrolled in local public schools the educational outcomes are poor. One parent withdrew her daughter from school and taught her to read at home before the State primary school in question recognised the child's potential. The child is successfully completing primary school and will enter high school next year - but in the Catholic system not the State system due to the reluctance of any State high school to enrol her without 'conditions' or a trial period. Figure 1 gives some examples of the type of educational discrimination mentioned in this report..

In higher education, anecdotal accounts indicate that discrimination continues but few of these cases have reached the point of being determined by the Human Relations and Equal Opportunity Commission (HREOC) Hearing Process. Discrimination issues in higher education have covered physical access; inadequate support such as interpreters for deaf people or provision of course notes; inadequate allowance for inability to complete tasks within the requisite time and setting up "special" graduation ceremonies for people with a disability.

From the DDA Standards Project Survey, 92 responses related to people with a disability wanting to participate in adult and community education. The vast majority (77) of these responses came from regional and rural New South Wales. The major issues for this group were:

- physical access;
- access to course materials in alternate formats; and
- access to appropriate support services.

187 responses related to students with a disability attending TAFE or university. Of these 97 responses came from TAFE students, 64 responses came from tertiary students and 26 responses came from the parents of students with disabilities attending either TAFE or university.

The major issues for these students are:

- gaining enrolment;
- access to appropriate support services;
- physical access; and
- assessment.

It appears that as higher education systems have to compete for students, they are relatively willing to come to conciliated agreements when challenged on discrimination issues. The potential public stigma of being found to have discriminated against students seems to be a powerful incentive to come to a conciliated agreement. In contrast, compulsory education in the school years means that there is not the same danger of losing students so school education systems remain the major area of resistance to compliance with the DDA. <sup>13</sup>

## **Effectiveness and availability of early intervention programmes**

### National Strategy in Education and Training by ANTA

The impact of discrimination on both individuals with a disability and the disability sector as a whole has been profound. "While 80% of the general population are participating in the workforce, only 53% of people with a disability do. This means that more than half a million people with a disability

<sup>13</sup>Disability Discrimination in Education – Draft paper Centre for Disability Research and Development. 1999

are not participating in the labour market".<sup>2</sup> The positive relationship between access to vocational education, training and employment are well known.

In 1998, 11% of the general population of Australians between the age of 15 and 64 participated in Vocational Education and Training (VET) yet only 2.5% of this age group with a disability did so. The proportion of the Australian population aged between 15 and 64 who have a disability is currently 16.7% yet the proportion of the VET population (aged 15 – 64) who have a disability is currently 3.6%.

The Australian National Training Authority (ANTA) have recognised this and have recently announced a National strategy to address this inequality. The vision of this national strategy is to: Create a vocational education and training system that leads world's best practice in achieving equitable outcomes for people with a disability<sup>14</sup>

To achieve this vision, ANTA has set four goals and strategies.

Goal 1: Opening the Door

To increase access to vocational education and training for people with a disability.

Goal 2: Improving the Learning Experience

*To improve successful participation and attainment in all fields of study and levels of vocational education and training.*

Goal 3: Achieving Employment and Lifelong Learning Outcomes

*To achieve outcomes in employment and lifelong learning to allow people with a disability to make greater contribution to the economic and social life of the community.*

Goal 4: Creating an Accountable System

*To create an accountable system that provides equitable outcomes for people with a disability.*<sup>35</sup>

The MCEETYA taskforce must consider this vision for the future and reconsider whether the current draft Disability Standards for Education will help achieve the vision being set by ANTA or will it inhibit this national strategy to achieve world's best practice. Many of the comments received so far assess the Draft Standards as maintaining the status quo rather than eliminating discrimination.

There have also been substantial decisions in case law of disability discrimination in education since the development of the Draft Disability Standards for Education. Cases such as Purvis v The State of NSW (Department of Education) have certainly raised the expectations of people with disabilities and should also be reflected within the Draft Education Standards.<sup>15</sup>

## **Current trends**

### Schools

Statistics show that there are approximately 3 million children of school age in Australia. Of these children, approximately 3.7% receive Commonwealth assistance in connection with an identified disability and is the area where the greatest changes will be felt with the introduction of a DDA Education Standard.<sup>16</sup>

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<sup>215</sup> Bridging Pathways. Blueprint for implementation from 2000 to 2005. ANTA.  
Ibid p 6.

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<sup>15</sup> The Way Forward – DDA Standards Project 2000

<sup>16</sup> DETYA – 2000 School Census

## Vocational Education and Training

According to statistics also, approximately 11% of the working age population of Australia participate in Vocational Education and Training, while 2.4% to 4% of people with disabilities participate in VET, focussing on the lower level courses. If people with disabilities had the same opportunities as other Australians these rates would increase significantly and would impact significantly on the Federal Governments *Australians Working Together* and the move to encourage people with disabilities into the workforce and away from dependency on Disability Support Benefits.

## Higher Education

Approximately 18,500 higher education students self identify as people with disabilities, representing approximately 2.7% of the total higher education population of 686,000 in 1999. This contrasts with around 16.7% of the working age population identified as people with disabilities. The number of participants would also increase significantly if Education were more inclusive and provided the appropriate support and resources needed for full participation.<sup>17</sup>

## **Access to and adequacy of funding and support in the public and private sector**

### Individual funding:

People with disabilities studying at Higher Education Institutions in receipt of a Disability Support Pension may also qualify for the Pensioner Education Supplement if the student:

- is undertaking full-time schooling at primary (or equivalent ungraded) level; and
- has not yet turned 21 years of age.

In addition a student with a disability may be eligible for a Mobility Allowance if undertaking studies for more than 8 hours per week.<sup>18</sup>

These figures do not take into account the actual cost of having a disability, which applies to the parents of a child with a disability attending school, a young person with a disability at Secondary School or a person with a disability attending a tertiary institution or training institution.

Over the past 3 years, the Physical Disability Council of Australia has undertaken research into the costs of having a disability on a day to day level and his findings support the fact that the current income support system is not adequate to sustain a lifestyle of dignity and quality for any person with a disability. This would increase in the case of a person with a disability who was undertaking studies either through the schooling system or through tertiary education.

Dr Frisch states that “ For people with disabilities, The McClure Report was a missed opportunity. The brief was to examine the income support system with particular reference to creating more incentives for employment participation and to make the income support system more efficient.

Because the Report failed to comprehensively study the total disability support picture and focused only on Commonwealth payments, it failed to recognise the role of the States in discouraging employment participation and thereby failed to create a structure for rationalising the complementary relationship between Commonwealth and State supports; it failed to recognise that its final recommendations of a tripartite system of payments was not significantly different from the status quo; and it failed to spell out the participation disadvantage caused by an inaccessible social infrastructure and the consequent potential role of regulatory authorities in making the infrastructure more accessible.”<sup>19</sup>

Frisch also stated that “The Disability Support Pension is the same as the Aged Pension, even though people with disability generally have more non-discretionary expenditures than aged

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<sup>17</sup> ABS (1999) Disability, Ageing and Carers: Summary of Findings ABS Catalogue Number 4430.0 April

<sup>18</sup> Centrelink Information

<sup>19</sup> Frisch, J. Towards a Disability Allowance: Offsetting the Costs of Disability – an Analysis. June, 2001

<sup>20</sup> Media Release Dr D Kemp – May 2001

persons. **This parity effectively ignores the additional cost of living faced by people with disability.** Furthermore, the DSP provides the same level of basic income support to people with little non-discretionary additional support costs as it does to people with high non-discretionary additional support costs.”

Frisch further recommended the following:

1. “In view of the methodological problems that plague expenditure surveys seeking to measure the additional cost of living due to disability, alternative methods need to be used. Options include desk-based “budget needs” estimates, along the lines conducted by Saunders et al. (1998) and experience-based measures based on pilot programs testing the impact of alternative budget constraints. The small sample size of people within any particular cluster will always inhibit sampling techniques;

and

2. “To account for the additional costs of living due to disability, the Disability Support Pension needs to be replaced by an *Income and Employment Participation Support Allowance (IEPSA)* and a *Disability Cost of Living Allowance (DCoLA)*”<sup>21</sup>

## **Nature, extent and funding of programs that provide for full or partial learning opportunities with mainstream students**

### Institutional funding

A Media release in 2001 outlined the government initiatives to support for people with disabilities in Higher Education.

### **A Better Deal for People with Disabilities.**

The *Australians Working Together* initiatives for people with disabilities will focus on providing critical on-the-ground support to lift education participation by this group at pivotal points in their lives. The package provides an increase in funding of \$37 million from July 2002 for these elements.

"This measure clearly shows the Government's commitment to supporting the labour market aspirations of people who have a disability," said Dr Kemp.

"While 80 percent of the general population of working age are in the workforce, this figure falls to only 53 percent of people with a disability.

"The important measures I have announced today as part of *Australians Working Together* are aimed at lifting the workforce participation and job security of people with disabilities in the longer term by improving their access to education and training."

The additional assistance for people with disabilities will fund:

- Around 5,200 new places in vocational education and training, with the exact number of places to be settled in discussions with State and Territory training authorities; and
- Additional learning support for more than 1,500 students with disabilities in higher education.

In addition, the Minister announced a new Disability Coordination Officer Programme as part of the package. This element will provide 15 positions to assist people with disabilities to move between school, vocational education and training, higher education and employment and to succeed in their chosen course. Disability Coordination Officers will provide information and link support

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<sup>21</sup> Frisch, J. Towards a Disability Allowance: Offsetting the Costs of Disability – an Analysis. June, 2001

On the other hand, a report prepared by Higher education is not alone in attempting to further understand and address these problems. A study undertaken last year by the Access Training and Employment Centre (ATEC) for the Victorian Office of Training and Further Education found that the issues most frequently raised in consultation with TAFE staff and other stakeholders were those of increasing costs of support for students with disabilities, with no commensurate increase in budgets. The study also found an uneven provision of services across the sector, with “good” colleges being penalised financially (ATEC 1999).<sup>23</sup>

And “ ... As noted earlier, following the introduction of the *Disability Discrimination Act 1992*, Government (and particularly DETYA and its predecessors) has maintained the position that there is an obligation on the part of institutions to comply with the provisions of this (and other) legislation and therefore meet the needs of students with disabilities. What is also clear from recent consultations is that senior management at a number of universities does not appear to appreciate this obligation with the result that:

- budgets for student support are tight/fixed or even shrinking;
- many DLOs are torn between attempting to meet the needs of students and containing expenditure within budget parameters, which leads to a stressful working environment; in other cases – presumably as a result of limited budgets – their role appears to be to limit a student’s expectations rather than be a strong advocate for the needs of the student;
- students are often dissatisfied with the level and quality of service they are able to access – as emerged in a Deafness Forum survey and as experienced by an Advocacy Officer for Blind Citizens Australia.

The priority that universities place on services for students with disabilities is reflected not only in the size of the budget for the purchase of services and equipment, but also in the staffing of the disability office. A recent survey conducted by a Regional Disability Liaison Officer found enormous disparity in the level of resources allocated for disability, particularly in relation to staffing, both in terms of numbers and levels. It found that, in one case, there was just one Disability Liaison Officer for 700 students, although on average there were 2.25 staff per institution. One member of staff was, on average, responsible for 245.5 students. The conditions under which disability practitioners were employed also varied widely, from HEW level 4 to level 9, with the majority employed at level 7 or 8. The RDLO further found that, in general, the quality of support provided to students with disabilities depends on the level of support given to practitioners (Boardman 2000).

The budget squeeze within institutions forces some equity areas to use funding from the HEEP in order to provide individual services for students with disabilities – a practice that is completely at odds with the intended use of HEEP funding.”

### **Teacher training and professional developments**

Devlin (2000) also states that “As noted in Section 3, the number of students with disabilities continues to rise. Those with complex/high support needs (eg deaf students, those with vision impairment and those with learning disabilities such as dyslexia) are said to be rising even more markedly. Factors likely to have contributed to the steady increase include:

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<sup>23</sup> Devlin, Y. Students with Disabilities in Higher Education: At whose cost and what price? August 2000. University of NSW

- integration of students with disabilities in the school system, with greater numbers completing secondary schools and aspiring to go on to university;
- encouragement of students to reach their potential through education and more information provided to them on future options;
- increased awareness of the rights afforded by the Disability Discrimination Act; and
- awareness that some institutions are ready and able to meet their needs and offer sympathetic environments.

While this is an entirely welcome phenomenon from an equity point of view, it needs to be viewed in the context of tight financial resources allocated for disability support.

For practitioners, the major difficulty associated with providing for all students with disabilities is the unpredictability of their numbers from year to year making it impossible to estimate future expenditure. Of particular concern to DLOs is the unpredictability of those with high support needs – even two deaf students enrolling in a science or engineering course (with high contact hours and laboratory work) can blow out a budget in no time. The option for DLOs then is either to limit support to other students, or to seek further funding and running the risk of seeing their professional judgement questioned by management. “

What is clear and is also supported by Devlin (2000) is the failure to identify the resources and funding needed by institutions in order to meet the expectations of education delivery to students with disabilities ...” The area where no current information is available is that of costings within the sector.

The Andrews report (1992) *Additional Costs of Education and Training for People with Disabilities* was based on a survey of estimated costs borne by universities and TAFE colleges, but it is now extremely out of date. The work undertaken by Mary Jones of Swinburne University of Technology two years later, *Financial Benchmarking of students with Disabilities*, based on actual rather than estimated costs, is now also out of date.

### **Legal implications and resource demands of current Commonwealth and state and Territory legislation;**

Resource demands of current Commonwealth and State/Territory legislation play a significant part in the provision of education to all Australians and in particular to people with disabilities. Governments increasingly cite the importance of the education of all Australians and connect education with ‘Australia - Smart Country.’ This is mere rhetoric when the resource needs are consistently cut or not met by consecutive governments.

It has been well documented in all forms of media and information that the Australian Education system is falling behind that of the rest of the world. This is more significantly so for people with disabilities in Australia as financial cutbacks continually mean no resources to meet the requirements of obtaining an education for a person with a disability. In essence this means that Education providers and Commonwealth State and Territory Governments are discriminating against people with disabilities by their inability to provide an education that equitable to all Australians.

### **Role of the Commonwealth and States/Territories should be in supporting the education of students with disabilities**

Inquiry into Rural and Remote Education:

A national rural and remote education strategy is needed to address the growing inequalities in the provision of education services to the nation's children, Human Rights Commissioner Chris Sidoti said today.

Mr Sidoti called on Commonwealth, State and Territory Governments to develop and implement a strategy which takes into account telecommunications, transport, subsidies and allowances to families and students, sporting and recreational facilities, teacher training and regional planning. "A "one size fits all" approach to education does not work," Mr Sidoti said. "Each State and Territory public and private school system must commit itself to ensuring every child has the right to an education which develops to the fullest extent his or her personality, talents and mental and physical abilities."

"There are a raft of improvements that can be made. Professional development and incentives for rural staff need to be improved. Urgent action is needed to ensure children in the Northern Territory outside the six main towns get even basic secondary education."

The report *Recommendations: National Inquiry into Rural and Remote Education*,<sup>24</sup> tabled in Federal Parliament today, is the product of more than a year's consultation on the standard of education outside Australia's main urban centres.

The report contains 73 recommendations, including the establishment of a Ministerial-level taskforce to promote school-community collaboration in rural and remote areas. It calls for faster, better quality and lower cost access to the Internet and more incentives for IT professionals to go to rural and remote areas. It also recommends prevention programs to tackle otitis media or middle ear infection – which in many schools can affect more than 70 per cent of students at any time - as well as improved health services, teacher training, aids for amplification and modifications to classrooms to reduce background noise.

## **Disability Discrimination Act 1992**

The Commonwealth Disability Discrimination Act 1992 (DDA) was a milestone in the enfranchisement of Australians with disabilities. It was introduced after many years of lobbying by people with disabilities and their supporters. The Act aims, as far as possible, to remove barriers that prevent people with disabilities from participating equally in all areas of life.

Section 31 of the DDA provides for the Attorney General to formulate disability standards (known as DDA Standards) so that rights and obligations under the DDA can be set out in more detail and with more clarity. DDA standards may be made in the areas of public transport, employment, accommodation, education and Commonwealth Government laws and programs. The Federal Government recently expanded this provision to allow for the development of a DDA standard on access to public buildings.

DDA standards are intended to clarify how the DDA should apply to a particular section of society, for example, in schools or perhaps a restaurant. There is currently work being undertaken in the areas of public transport, education, access to public buildings and access to Commonwealth information and communications (this falls under Commonwealth Government laws and programs).

## **DDA Education Standard**

The DDA Standards Project (DDASP) is a project of the Federal Attorney Generals Department and is at present auspiced by Deafness Forum Australia. It is envisaged that the DDASP will become a project of the Australian Federation of Disability Organisations when it is established later this year.

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<sup>24</sup> *National Inquiry into Rural and Remote Education*

The role of the Project is to ensure that people with disabilities are partners in the process of development and consideration of any DDA standard. The Project provides an opportunity for the community to focus on the development of the Standards, and to ensure that the opinions of people with disabilities are heard with a strong voice.

The DDA Standards Project facilitates and coordinates input from people with disabilities in Australia into the standards process. It selects and supports consumer representatives taking part in the DDA Standards development. In addition, the DDA Standards Project provides a flow of information between the Standards Working Groups and the disability sector. It ensures that debate on the issues at hand are heard by all concerned and that all opinions are heard and taken into account.

The objectives of the DDA Standards Project are to:

- Educate people with disabilities about Section 31 of the DDA.
- Inform people with disabilities about the different standards processes.
- Engage the disability sector in debate and discussion of specific issues around DDA standards.
- Consult with people with disabilities during the development of specific DDA standards.
- Reflect all the views expressed by people with disabilities during consultations.
- Protect the rights of people with disabilities from erosion during standards development processes.
- Seek legal clarification from independent sources where questions of law arise to better inform the views of people with disabilities.

The DDA Standards Project believes that:

1. Whilst the process of developing Standards is lengthy and difficult, the complexity, importance and future benefit of clarifying rights under the DDA demand that it be undertaken.
2. Any Standards developed must not dilute any rights already enshrined in the DDA and must be consistent with the current laws of Australia.
3. The process of developing Standards should aim to achieve legally binding standards.
4. If Standards are not acceptable to the community, the principles developed during the development process should form the basis of an alternate methods to clarify rights under the DDA.
5. Any alternative to Standards should be endorsed and supported by the disability sector as a whole.

### ***Role of Consumer Representation***

The DDA Standards Project is represented in the DDA Standards development process by elected disability sector representatives. Their role in the DDA Standards process is to present the views of the disability sector and ensure that these views are heard and given credibility.

DDA Standards representatives are expected to:

- Raise matters for discussion.
- Make recommendations for endorsement by the disability sector or the DDA Standards Project Steering Committee.
- Initiate or generate agenda items after consultation with the disability sector and the National Coordinator.
- Develop a position response after consultation with the disability sector and the National Coordinator.
- Be directly involved in the discussions and decisions of the standards working group to which they are appointed.
- Conscientiously attend meetings of the standards working group to which they were elected.
- Liaise regularly with the Convenor through the National Coordinator.
- Represent the broad disability area to the best of their ability on standards working groups.

- Liaise with other disability sector representatives to develop a unified position on relevant issues.
- Liaise with other representatives on their working group to provide written reports to the National Coordinator at least two weeks before each DDA Standards Project Steering Committee meeting.
- Be accountable to the DDA Standards Project and through it to the disability sector.<sup>25</sup>

The primary purpose of the proposed Disability Standards for Education is to clarify and make more explicit the rights of people with disabilities and obligations of education and training service providers in relation to participation in education and training.

## Conclusion

Australians with a disability have a right to the same education opportunities as all other Australians requiring an education, whether it is primary, secondary or tertiary education.

The Federal Government has undertaken reforms in the area of welfare. The release of the paper 'Participation support for a more equitable society – Final Report of the Reference Group on Welfare Reform' in July 2000 indicated that Education plays a significant part in the inclusion of people with disabilities in the workforce and decreases the dependency on income support in the long term. PDCA supports this belief.

From the Final Report:<sup>26</sup>

"In considering opportunities for economic and social participation, the Reference Group is mindful that some people in our community face structural or systemic barriers to participation, including discrimination and problems with access to appropriate services and support. Examples include:

- Indigenous people who have the highest rates of joblessness and economic disadvantage in Australia.
- People with disabilities who can face physical access problems to services and the workplace, as well as attitudinal barriers.
- People of diverse linguistic and cultural backgrounds can often face language barriers as well as differences in what is considered culturally appropriate.
- Mature age people may sometimes be regarded as ready for retirement when they would rather remain economically active into their sixties or beyond.
- Parents and carers need employers who recognise that they may face some limitations on their availability for work and provide family friendly employment conditions."

## ***Suggested Levels of intervention from Welfare Reform Report:***

The level of service intervention, linking to both economic and social participation, would be a continuum including:

- *Self help and information provision* such as personal computers, printers, touch screen units with job vacancies, and photocopiers for people who are assessed as job ready, with information and minimal facilitation for those able to navigate available social and economic participation options. People with no participation requirements will be able to access self-help and information provision on a voluntary basis.
- *Low-level brokerage* for people who need to be linked to available services or require additional help with the planning process, if their needs and circumstances are not clear-cut. These services include Job Search Training with a Job Network member, the Jobs Pathway Program, Jobs Education and Training (JET) Program, pre-vocational training, literacy and numeracy

<sup>25</sup> Consumer Representation Duty Statement – DDA Standards Project 2001

<sup>26</sup> Final Report of the Reference Group on Welfare Reform' in July 2000

programs, study (Year 12 and tertiary), career counselling, work for the dole, volunteering agencies, social work services, accommodation support services, emergency relief, family counselling, and access to child care opportunities.

- *High-level brokerage (individualised assistance)* for people who are not job ready or who have multiple barriers to participation. This may involve assistance to access and coordinate participation support from a range of programs. These services include Intensive Assistance in the Job Network, CRS Australia, the Community Support Program, vocational rehabilitation, open employment services, supported employment services, Job Placement, Employment and Training program.

## **Recommendations**

PDCA supports the process of Welfare Reform in Australia and especially mutual obligation as endorsed by the current government. Having said that, we argue that Mutual Obligation is a two way street. Without the recognition and strategies for the support of students with disabilities and programmes that endorse and encourage participation as well as the funds to implement such programmes, this will fail and people with disabilities will continue to remain one of the most impoverished and disadvantaged sectors in our country.