

Joint submission in response to the *Review of Disability Standards for Education 2005*

The Secretariat
Review of the Disability Standards for Education 2005
Department of Education, Employment and Workplace Relations
Location C50MA5
GPO Box 9880
CANBERRA ACT 2601

Dear Secretariat,

AYAC and YDAS welcome the opportunity to provide a submission to the Department of Education, Employment and Workplace Relations' (DEEWR) review of the Disability Standards for Education 2005.

We acknowledge the work of DEEWR to date and support them in their endeavours to ensure the review of Disability Standards for Education helps all young people with disability engage in education that is empowering and meets their needs. We look forward to the findings of this review and would welcome the opportunity to meet to discuss this further.

This submission has been developed in consultation with AYAC's Policy Advisory Council, which comprises all youth State and Territory peak bodies, as well as young people and youth-led organisations, and specialist organisations with a youth focus, in areas such as mental health, drug and alcohol, academic bodies, and other relevant organisations.

AYAC would also like to acknowledge young people with a disability (8 to 26 years) and their parents who generously contributed their ideas and feedback via AYAC's online survey. AYAC also met with a few students for whom written feedback was not appropriate.

If you have any questions in relation to our submission or wish to seek further advice from AYAC please contact Maia Giordano, Deputy Director (Young People) via phone 0435 496 494 or email maia@ayac.org.au.

Andrew Cummings
Executive Director

604/28 Foveaux St
SURRY HILLS NSW 2010

We acknowledge the traditional owners of country throughout Australia and their continuing connection to land, sea and community. We pay our respect to them and their cultures, and to the elders both past and present.

About Us

This is a joint submission by the Australian Youth Affairs Coalition and the Youth Disability Advocacy Service from the Youth Affairs Council of Victoria.

The Australian Youth Affairs Coalition

The Australian Youth Affairs Coalition (AYAC) is Australia's non-government youth affairs peak body, which represents young people aged 12-25 and the sector that supports them.

AYAC represents a growing membership of State and Territory youth peak bodies, national youth organisations, researchers, policy makers and young people themselves, who are all passionate about creating an Australian community that supports and promotes the positive development of young people.

AYAC aims to:

- Provide a body broadly representative of the issues and interests of young people and the youth affairs field in Australia
- Advocate for a united Australia which respects and values Aboriginal and Torres Strait Islander heritage, promotes human rights, and provides justice for all
- Represent the rights and interests of young people in Australia, at both a national and an international level
- Promote the elimination of poverty and to promote the wellbeing of young Australians, with a particular focus on those who are disadvantaged
- Recognise the diversity of Australian society, to promote the cultural, social, economic, political, environmental and spiritual interests and participation of young people in all aspects of society
- Advocate for, assist with and support the development of policy positions on issues affecting young people and the youth affairs field, and to provide policy advice, perspectives and advocacy to governments and the broader community
- Facilitate co-ordination and co-operation within the youth affairs field

AYAC and its members are committed to working for and with young people and seek to ensure they have access to mechanisms which allow them to get involved in decisions about issues that affect them in the Australian community.

Youth Disability Advocacy Service

The Youth Disability Advocacy Service (YDAS) is part of the Youth Affairs Council of Victoria (YACVic) – the Victorian state youth peak body. YDAS works alongside young people with disabilities in between the ages of 12 and 25 to raise awareness of their rights and to support them to achieve what they want. They provide one-on-one support through their individual advocacy service as well as engaging in structural advocacy to change the system for young people living with disability. This broader work is directed by the YDAS steering committee whose membership is made up exclusively of young people with disabilities from across Victoria. YDAS is a partnership between the Youth Affairs Council of Victoria, the Disability Discrimination Legal Service and Youthlaw.

YDAS is the only youth-specific advocacy service of its kind in Australia.

Recommendations

In response to the review of Disability Standards for Education, we believe the system needs to be underpinned by a human rights-based approach to young people with a disability getting an education, and that the Federal Government should take a strengths-based approach to young people as experts in their own experience.

We urge the Federal Government to use the Review as a catalyst for action that empowers and supports all young people with a disability to access a fair and welcoming education system.

AYAC recommends that:

1. The Standards be underpinned by a human rights framework in line with Australia's commitments as a signatory to the UN Convention on the Rights of People with a Disability Convention on the Rights of the Child and the Convention against Discrimination in Education.
2. The Government in partnership with the AYAC and YDAS undertake national consultations with children and young people with a disability.
3. The Government create a consistent, whole of government approach to meeting the needs of young people with a disability.
4. The Standards mandate entitlements for young people who need whole-of-life support in order to access education.
5. The Government prioritise raising awareness about the Standards as lack of awareness is one of the key barriers to full implementation of the Standards.
6. The Government ensure all education providers are aware of the Standards and the obligations under the Standards.
7. Young people with a disability have access to a clear and supportive complaints process.
8. Compliance with the Standards be strengthened to include an audit process involving young people with a disability.
9. Teachers and education providers receive training in meeting their obligations under the Standards.
10. The Standards be strengthened to make it compulsory for education providers to offer support services to any student with a disability.
11. All educational authorities receiving government funding to deliver education services are required to fund their respective educational institutions adequately, in order that the Standards may be implemented.
12. The Government and education providers undertake awareness campaigns so that young people with a disability know where to go for help.
13. The Government develop specific strategies to combat discrimination and victimisation of young people with a disability within the education system.

AYAC and YDAS are committed to working with governments to ensure the voice of young people with a disability is central to any decision-making and policy implementation to increase access and meaningful participation of young people with a

disability in the education system. We look forward to the findings of this committee and would welcome the opportunity to meet to discuss this further.

Introduction

The voices of young people with a disability are a critical element of assessing the effectiveness of the Disability Standards for Education 2005 (the Standards) in meeting its stated aim of ensuring 'students with disability are able to access and participate in education on the same basis as other students.'¹ AYAC believes in the right of young people with a disability to have input into decisions on issues that affect them. To this end, we have incorporated the perspectives of young people with a disability throughout this submission based on AYAC's online survey of almost 400 young people and parents from across Australia² as well as case studies³.

We believe more needs to be done to adopt a strengths-based approach and celebrate the diversity, strengths and unique perspective that young people with a disability bring to the education system rather than access and inclusion being a burden tacked on to the existing system.

To be effective, compliance with the Standards must be commonplace through:

- Widespread awareness of the Standards among all stakeholders within the education system.
- Compulsory training for educational staff.
- Engaging young people with a disability in regular consultations on how the education system is meeting their needs.

AYAC consulted directly with young people and parents of those with disability via an online survey entitled *Your Views on Young People with a Disability and Education*. The poll surveyed 397 people and asked them about their perceptions on the Disability Standards for Education and whether young people with a disability experience equal opportunity to access and participate in education free from bullying and discrimination.

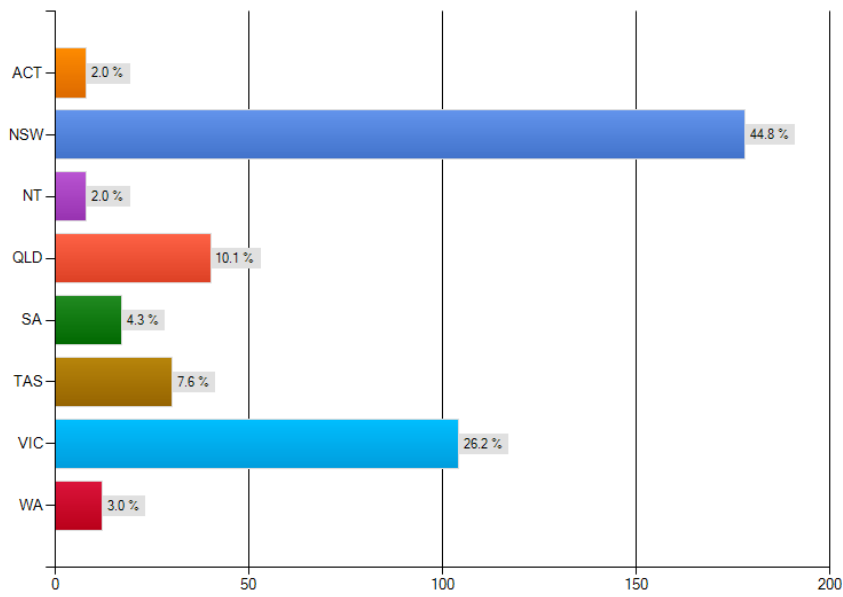
The charts below show that the AYAC survey reflected the views of all States and Territories across Australia and from all age groups, with young people 16 to 26 years of age among the largest group of respondents.

¹ Australian Government, 2010, 'Review of Disability Standards for Education 2005: Discussion Paper', December 2010, Department of Education, Employment and Workplace Relations, p7.

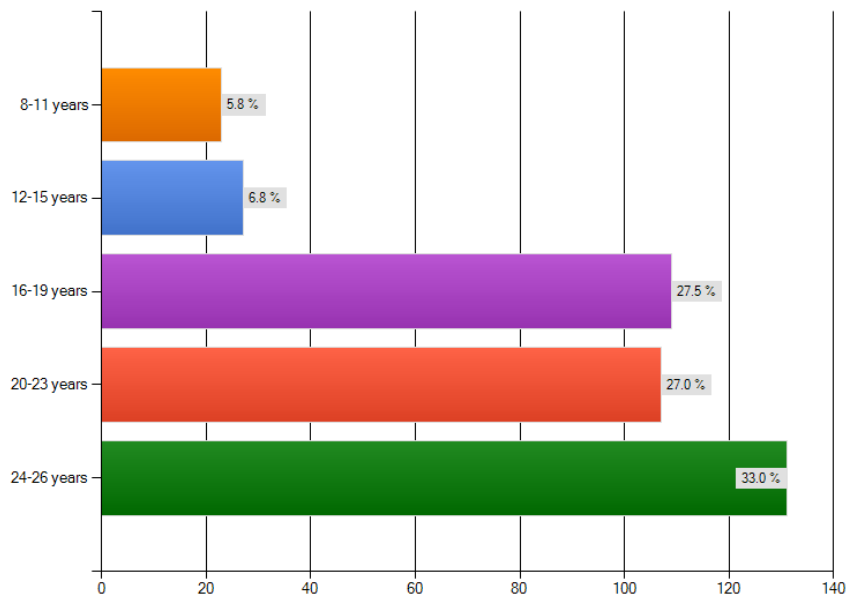
² AYAC also recorded young people with a disability for whom written feedback was not appropriate.

³ Provided with permission from YDAS and People with a Disability Australia.

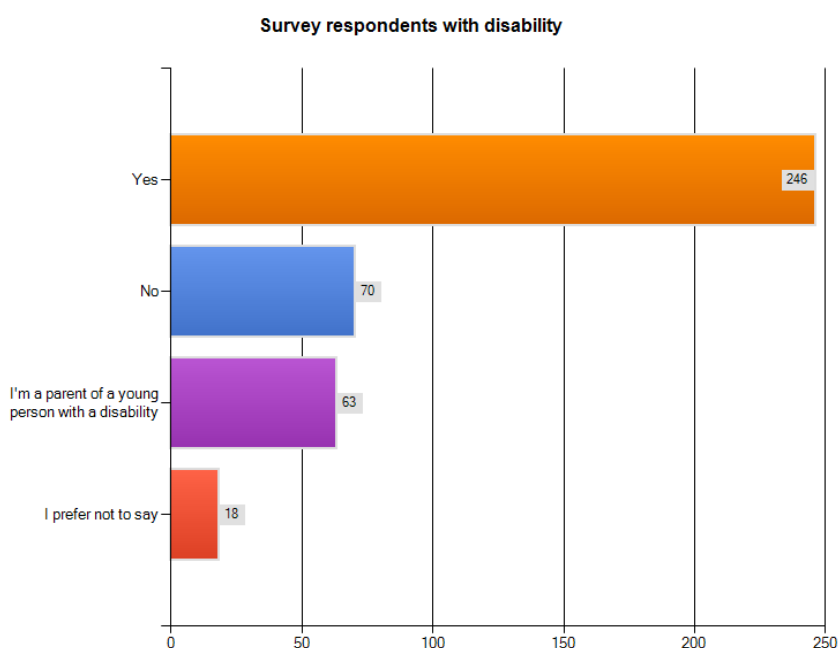
Location of Respondents



Age of Respondents



Most of those who took the survey were young people with disabilities or parents of those with disability, as outlined below.



Although the education system may be more accessible than in the past, there is still a long way to go to make the Standards a compulsory entitlement for all young people with a disability getting an education.

The Standards need to be implemented in a way that takes the burden off individual young people and shifts towards building in safeguards so education is easily accessible for young people with a disability. Minimum standards need to become compulsory in order to enable the Standards to be effective and similarly schools and teachers must be resourced appropriately to embrace and meet the needs of young people with a disability in education.

The Standards underpinned by human rights

ToR '4. have promoted recognition and acceptance in the community of the principle that people with disability have the same fundamental rights as the rest of the community.'

It is considered a basic human right for young people with a disability to get an education. A positive and empowering experience in the education system can have far reaching impacts on the life direction and participation of young people with a disability. The right to education is outlined by the United Nations Convention of the Rights of People with a Disability (CRPD) in terms of 'full development of human potential, via effective individualised support measures to maximise academic and social development, on an equal basis with others in the communities in which they live... For many students with disability, however, this is far from their experience.'⁴ The results of the AYAC survey outlined in the proceeding sections backs up the claims by People with a Disability Australia that young people with a disability face multiple barriers to getting an education.

Australia has become a signatory to the CRPD, which outlines the eight guiding principles, including:⁵

1. Respect for inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons
2. Non-discrimination
3. Full and effective participation and inclusion in society
4. Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity
5. Equality of opportunity
6. Accessibility
7. Equality between men and women
8. Respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities

"I think the only way people with disability will be respected by people without a disability is if they have to live a week in their shoes."

- Survey respondent

The onus now is on the Australian Government and the community at large to ensure the CRPD is reflected in current policies and services for all people with a disability. The Standards need to be underpinned by a proactive human rights based approach that mean education institutions and teachers are resourced and trained to meet the needs of young people with a disability rather than putting the onus on students and their parents to know their rights and have to push for what they need.

The current opportunities and operations of education institutions breach not only the Standards but the *Disability Discrimination Act 1992* and also several international conventions to which Australia is a party including but not limited to the:

⁴ People with Disability Australia, 2010, *Submission to the inquiry into the provision of education to students with a disability or special needs*, People with Disability Australia, p2

⁵ United Nations, 'Guiding Principles of the Convention', accessed 20/4/11
<http://www.un.org/disabilities/default.asp?navid=15&pid=156>

- Convention on the Rights of Persons with a Disability
- Convention on the Rights of the Child (CROC);
- Convention against Discrimination in Education; and
- International Covenant on Economic, Social and Cultural Rights.⁶

This year Australia is reporting on its obligations under the CROC, the Non-Government Childrights report highlights the need for a national approach to consultations with children and young people with a disability.⁷ AYAC supports this call and offers support to work with the Government on coordinating such consultations.

Recommendations

1. That the Standards be underpinned by a human rights framework in line with Australia's commitments as a signatory to the UN Convention on the Rights of People with a Disability Convention on the Rights of the Child and the Convention against Discrimination in Education.
2. That the Government in partnership with AYAC undertake national consultations with children and young people with a disability.

Whole of Government approach

Since the Standards were established in 2005, we commend the Government on multiple initiatives aimed at dignity, access and full participation in society by people with a disability. However to be effective, these initiatives must ensure a consistent message and policy aims that lead to tangible, meaningful outcomes for young people with a disability.

In 2010, the National Disability Strategy highlighted *Learning and Skills* as a key priority for the Government. In this area the policy outcome identified that 'People with disability achieve their full potential through their participation in an inclusive high quality education system that is responsive to their needs.'⁸ This is indeed what the Standards aim to achieve but in order to achieve this aim the Government must strengthen powers of the Standards and commit resources to enable education providers to easily engage and empower young people with a disability within the education system.

"What we need is more funding. Better organised services. Universities and TAFE need to provide adaptive software as this is an enormous expense for students. I was recently asked to purchase a program for \$1000 to scan my own documents. I am on a low

⁶ Disability Discrimination Legal Service Inc., 2011, Submissions on the Disability Standards for Education 2005, unpublished, p2

⁷ Childrights Australia, 2011, *Listen to Children: 2011 Child Rights NGO Report Australia*, National Children's and Youth Law Centre, unpublished.

⁸ Australian Government, 2010, *2010 – 2020 National Disability Strategy: An initiative of the Council of Australian Governments*, Council of Australian Governments, p53

income. Alternative formatting and other services need to be provided on time. eg. week 1's readings before week 1, not in week 7."

– Survey respondent

While this review focuses on the experience of young people with a disability on education, the support young people with a disability may require goes beyond the education policy. Although additional support services are not an entitlement under the Standards, some young people will not be able to participate in education without a *whole-of-life* approach, where personal care needs are met in addition to educational support. In this context, a whole-of-Government approach is essential to create meaningful change for all young people with a disability.

Case study 1:⁹ Advocacy for personal care support

A 19 year-old female with quadriplegia sought advocacy support from YDAS to obtain the personal care she needed to participate at university. The university agreed to provide educational support such as note-taking but would not provide personal care as this was not required under the Disability Standards for Education. The Department of Human Services (DHS) could only provide limited funding because of constraints on resources. The young person's mother had to assist with personal care at the university for several months until DHS committed episodic funding for 12 months. This required significant advocacy effort and it could not be guaranteed by DHS that funding would be provided for the duration of the young person's four year degree.

(See also Case study 4 – section on 'Inadequate staffing levels and resources')

Recommendations

3. That the Government create a consistent, whole-of-government approach to meeting the needs of young people with a disability.
4. That the Standards mandate entitlements for young people who need whole-of-life support in order to access education.

⁹ This case study has been provided by the Youth Disability Advocacy Service at the Youth Affairs Council of Victoria.

Lack of awareness of the Disability Standards

(refers to key Q2: Are you aware of your rights under the Standards?)

Awareness of the Standards and upholding of the rights of people with a disability is crucial among young people, their parents and education institutions if the Standards are to have a real impact on access and participation in education. This is particularly pertinent when considering that the Standards come into effect when a complaint is made following a breach, yet the complaints process is a barrier in itself. In order for the Standards to have meaningful impact for young people with a disability, it is essential there is widespread awareness of rights and the Standards *as well as* a clear and supportive complaints process.

“Make sure students with disability know about their rights and what options are available to them. Not telling them you have a disability so you can’t do X, Y, or Z.”

- Survey respondent

From AYAC’s survey, when it came to whether people had actually heard of the Standards, the results were not encouraging. Of the total respondents, only 43% said that they had actually heard of the Disability Standards. Looking more closely at the respondents who had a disability - and therefore require a greater level of awareness of the supports and services available to them - a mere 57% said that they were aware of the existence of the Disability Standards.

Over half (52%) of parents of children with disabilities said that they were unaware of the Disability Standards for Education. The respondents who identified as having a disability and 20-23 years (at an age where they would be most likely to need access to tertiary education or specialised training), 62% were unaware of the existence of the Standards.

Recommendations

5. That the Government prioritise raising awareness about the Standards as lack of awareness is one of the key barriers to full implementation of the Standards.
6. That the Government ensure all education providers are aware of the Standards and the obligations under the Standards.

Clear complaints and compliance process

The Standards come into effect when a complaint is made and the fact that there is not widespread awareness of the Standards is of concern. AYAC's survey results on awareness of the Disability Standards are more stark when it comes to making a complaint under the Standards. A significant proportion (41%) of respondents with a disability said they did not know how to make a complaint or who to make a complaint to regarding their education.

"Young people with disabilities need initiatives to improve their confidence, know that it's OK to seek help, be aware that their 'pride' will hinder them from getting the support they require. They need to know that they too have a right to quality education which will give them more career opportunities."

- Survey respondent

It is clear the compliance system does not work when people are unaware of the Standards and or how to make a complaint. Issues and barriers may be addressed on an individual basis but this does not lead to widespread change for all young people with a disability trying to access education. The reliance on individual complaints regarding breaches in the Standards or the *Disability Discrimination Act 1992* is prohibitive for many young people with a disability speaking out about injustice.

"You are asking people to complain to the very gatekeepers of their education."

- Survey respondent

There is urgent need for stronger mechanisms for enforcing the Standards. The current system needs to be improved so that compliance with the Standards is not voluntary and/or does not rely on a complaints process. Teachers also need to be trained and resourced to be appropriately meet the needs of young people with a disability.

"Educate staff about the rights and the problems of students with a disability. Educate students about the rights and the problems faced by students with a disability. Educate students with a disability about the reasonable adjustments they are entitled too, and how to make the most of them. Significantly increase funding to disability services within the university."

- Survey respondent

"Force schools to train teachers in how to deal with disabled students AND how to avoid bullying students themselves and how to teach others that bullying is not acceptable."

- Survey respondent

"This policy needs to be focused on in-house training at schools. Most teachers do not seem to know anything at all about the content of this policy and that this is a legal requirement of all teachers."

- Survey respondent

We propose that compliance with the Standards be linked to an audit and accreditation process for education providers as well as training for teachers and education providers of their obligations under the Standards. An important part of the audit process should include consultation and involvement of young people within the relevant education institution.

Recommendation

7. That young people with a disability have access to a clear and supportive complaints process.
8. That compliance with the Standards be strengthened to include an audit process involving young people with a disability.
9. That teachers and education providers receive training in meeting their obligations under The Standards.

Equal access and participation in education

ToR '2. how have [the Standards] assisted people with disability to access and participate in education and training opportunities on the same basis as those without disability.'

Access and inclusion is a nuanced issue and we need to recognise that young people with a disability experience barriers to education in different ways depending on their disability and circumstances. The key issue in this area is that while the Standards aim to increase access and participation in education, until they are well-known and compulsory, the onus will be on young people with a disability to know their rights and push at an individual level to have their needs met. Access to education is a basic right and should therefore be made as easy as possible for young people with a disability to access.

"I have to be active to find help, when I am unwell, this is very hard for me. I have to set up and make contact with support systems before times of illness."

– Survey respondent

Education providers not providing reasonable adjustments

(Refers to both Q4: How can the Standards be improved to assist those suffering harassment or discrimination? And Q5: Have the Standards resulted in increased understanding of the rights of students to access education and training?)

“The current programs in primary and high schools are not adequate. There needs to be more time and money spent on testing especially for exam conditions. In year 12 I had to do a test to see if I was able to get a scribe in the HSC but these tests were designed for young children. This made me feel very disabled.”

– Survey respondent

From AYAC’s survey, when it comes to schools and training institutions making “reasonable adjustments” to make sure that students with disabilities can enrol without difficulty, many parents (55%) reported that their child’s school did not necessarily make changes to make enrolling easier and many (52%) did not necessarily treat their child equally when deciding on enrolments. When asked whether their child’s school made “reasonable adjustments” to ensure inclusion and participation in learning, many parents (42%) disagreed. The education provider should be required to provide “reasonable adjustments” for young people with a disability. The quote below highlights the severe and all-too-common experience of young people with a disability trying to get an education.

“I was asked to leave several of my schools because the schools didn’t think my needs could be accommodated. One was a private school, one a selective school. I had to hide my disability from TAFE in order to enrol. Later when I had proved that I was a good student, I told them about the extent of my disabilities and they said they wouldn’t have let me enrol, but were glad that I had because I got the best results in the HSC that they’d ever had. It was a real struggle through the bureaucracy though.”

– Survey respondent

Over 35% of parents said that the education provider did not even check with them about what kinds of adjustments and support their child needed to effectively enrol. And 45% of parents said that their child’s school did not check with them throughout the school year to ensure their child had the support and equipment they needed fully participate in learning activities. Consultation with young people with a disability should be a critical element of implementing the Standards.

Case study 2:¹⁰ Planning and youth involvement

A 20-year-old female with a physical disability received inadequate planning and support during a student placement from her university. Following correspondence and meetings with the university, additional resources and supports were finally agreed. Schools need to work on greater forward planning for students with disability, and should also involve students in such planning.

When asked about their child’s right to participate in relevant supplementary courses and programs, 47% of parents said that their school did not consider whether their child’s disability would affect their inclusion or involvement in these kinds of activities. The

¹⁰ This case study has been provided by the Youth Disability Advocacy Service at the Youth Affairs Council of Victoria.

Queensland Parents of People with a Disability highlight that ‘Education is a major ingredient in obtaining “a good life”; it is something most of us take for granted.’¹¹ Education is not just about the life pathways to employment but also about the opportunity to create social connections and lifelong friendships. Evidence highlighted in this submission should send a clear message to the Government that for many young people with a disability, access to a good education and participation in social life is out of reach because of multiple, systemic barriers.

The case study below highlights both the level of exclusion experienced by young people with a disability and also the critical role played by YDAS in providing advocacy and support for young people with a disability.

Case study 3:¹² Exclusion and adjustments for extracurricular activities

A 14-year-old male high school student with Autism sought assistance after being denied the opportunity to participate in school excursions unless accompanied by a parent. The student felt that he was being denied inclusion in the school community and in essential educational activities. The process of negotiating this case with the school caused considerable stress to both the student and his mother. YDAS advocated on his behalf to have more appropriate support to enable his inclusion in school excursions. As a result, the school located support staff and funding to accompany the student on excursions. This case shows that it is important for schools to ensure that there are staff who can act as specialist disability support officers, and that there needs to be more training and support to assist staff in these roles. It also highlights that better communication with the relevant government departments could help to ensure that such situations do not get to a stage where parents and students feel under stress from requests that restrict students’ opportunities to feel included and be educated.

Necessary support services lacking for students with a disability

(Refers to key Q3: Have you experienced difficulties participating in educational activities on the same basis as people without disability? Q5: Have the Standards raised awareness of the issues facing people with disabilities?)

‘I think the main issue in education is dignity. As a high school student with a disability I found that oversights in my provisions directly resulted in a loss of dignity. Is it really so hard for teachers to provide me with the same learning material as the rest of the class in a RELATIVE OR USABLE FORMAT at the SAME TIME as other class members? Teachers constantly forgetting to prepare my alternate materials BEFORE class always ate into class time and I often accepted small print material just to get on with the class and to appease my impatient classmates.’

– Survey respondent

Student support services are essential if students with disability are to ever genuinely claim their right to receive an education on the same basis as students without a disability. An alarming 63% of the parents of students with a disability surveyed were unsure or disagreed (43%) that their child’s school offered general support services,

¹¹ Queensland Parents for People with a Disability, 2009, *All Children Belong Together: Overview of Inclusive Education 1989-2009*, accessed 20/4/11

http://www.qppd.org/downloads/All_Children_Belong_Together.pdf, p1

¹² *Ibid.*

lending strong support to our concern that education providers are not complying with the right to specialised services which are essential for most, if not all, students with a disability to enable them to participate in essential learning activities. Particularly striking was the 71% of parents who professed uncertainty or simply disagreed (46%) that their child's school provided specialised support services. As highlighted by the Queensland Parents of People with a Disability, "Inclusion has been mandated and it is everyone's responsibility to ensure that it occurs."¹³ Support services must become a standard part of service delivery and education providers should be resourced appropriately to enable them to meet the needs of students with a disability.

"The Disability Services [at the University] try hard to assist students with disability. However, it often takes fairly long to organise a meeting with them or receive a response from them via email as there is very limited manpower provided towards Disability Services... The university administration and government should increase funding so that Disability Services can hire more staff and serve students more efficiently."

- Survey respondent

"Recognise that a non verbal learning disability is actually a disability. I feel that my UAI was severely diminished from what it should have been due to not having disability support and thus (unfortunately) changed my future options of study."

- Survey respondent

Case study 4:¹⁴ Inclusion in education

Abuse and Neglect

Last year whilst Joe attended a special school, in a small class group with a teacher and a teacher's aide, another student also with disability, forcefully bit Joe on the foot, deeply cutting into the skin. This led to hospitalisation, many antibiotics (which further destabilised his sensitive health status) and many weeks off school and work for his parents to care for him.

Neither the teacher nor the aide said they witnessed this incident, despite there being a staff to student ratio of 1:3. Even though Joe's parents requested information at the time of the incident, they were not provided with a copy of the incident report until many months later, and only following a complaint made to the Australian Human Rights Commission. Nor were they provided with information about the health status of the other child as requested by the hospital to assist them with treatment of the open wound sustained from the bite.

Inadequate staffing levels and resources

Joe also has his liquids via a peg tube into his stomach, although can eat small amounts of food orally. On several occasions Joe's feeds have been in his school bag at the end of his day. On these occasions he has arrived home dehydrated and tired due to lack of

¹³ Queensland Parents for People with a Disability, 2009, *All Children Belong Together: Overview of Inclusive Education 1989-2009*, http://www.qppd.org/downloads/All_Children_Belong_Together.pdf, accessed 20/4/11, p1

¹⁴ The following case study has been reproduced with permission from People with Disability Australia. Previously published People with Disability Australia, 2010, *Submission to the inquiry into the provision of education to students with a disability or special needs*, People with Disability Australia.

liquids. No satisfactory answers were provided to Joe's parents when they asked for an explanation. However off the record, they were told that teacher's aides no longer had to do peg feeds as part of their job. Furthermore, since 90% of their day was taken up providing personal care such as toileting for the students, there was little time for other duties or educational tasks.

Lack of choice

Despite all of the above, Department of Education and Training (DET) officials have told Joe's parents that this is the best school available to meet his needs because of its high staff to student ratio, specially trained staff and facilities for students with special needs. Joe's parents continue seeking better educational facilities to better meet Joe's needs and educational aspirations, where he will be safe, free from harm and abuse and in a positive learning environment where duty of care is paramount for a student as vulnerable as Joe. Their preference is that Joe's educational needs be provided in a mainstream school.

Recommendation

10. That the Standards be strengthened to make it compulsory for education providers to offer support services to any student with a disability.
11. That all educational authorities receiving government funding to deliver education services are required to fund their respective educational institutions adequately, in order that the Standards may be implemented.

Discrimination and harassment in education

ToR '3. have [the Standards] assisted to eliminate discrimination (including harassment and victimisation) of people with disability in education and training

Unfortunately, the Standards in general have not worked to prevent discrimination and harassment experienced by young people with a disability.¹⁵ Bullying and victimisation continue to be commonplace for young people with a disability and 'takes its most tragic form within the school system.'¹⁶

"It would be nice for teachers to understand the effects of disabilities. And to not feel discriminated against by teachers."
– Survey respondent

Bullying: a major problem facing students with a disability

(refers to key Q4: How can the Standards be improved to assist those suffering harassment or discrimination?)

"I've been bullied constantly at uni, to the point where I'm totally isolated and stigmatised by other students and I feel as if I'm just not good enough to study anymore. My mental health has declined to a point where I feel like I'm just hanging on by a thread at the moment. It's been one of the worst experiences of my life."
– Survey respondent

The experience of this young person (above quote) is all too common among young people with a disability and highlights the tragic effects of bullying and the need for urgent action. Young people are specifically protected from bullying and harassment under the Disability Standards. Yet, when asked whether their education provider had a system to help stop bullying or discrimination, over half of respondents with a disability (54%) were either unsure or said that there was none. Of the parents of these students, the results were more worrying, with 61% reporting that they did not know of any such systems in their child's school or university.

"[We need] less discrimination, bullying and more respect, less prejudice and rude remarks about people with disabilities."
– Survey respondent

"Include in first year program of uni an anti-bullying session or program that sets out the values and expectations of the uni."
– Survey respondent

When asked whether their education provider educated teachers and students about the wrongs of bullying of students with a disability, 55% of students with a disability and a significant proportion (65%) of parents disagreed or were unsure. When asked whether their school or university would take the right action in the case of bullying or discrimination, 54% of all respondents disagreed or were unsure, while a larger percentage of parents again (62%) disagreed or were unsure.

¹⁵ Disability Discrimination Legal Service Inc., 2011, Submissions on the Disability Standards for Education 2005, unpublished

¹⁶ National Children's and Youth Law Centre, 2003, Annual Report 2002-3, http://www.ncylc.org.au/about/annualreports/NCYLC_Annual_Report_2002_2003.pdf, p18

When asked whether their school or university made it known how to make a complaint regarding bullying, over half of all respondents disagreed or were unsure. Overall, AYAC's survey reveals that many schools and universities responsible for implementing the Standards are failing to uphold the rights of young people with a disability and protect their rights against harassment and victimisation. As outlined in previous sections, the complaints process in itself can be a barrier and so the system needs to ensure young people are supported and encouraged when their rights are breached.

"[We need] more belief in the person making complaints about bullying - too often it is assumed that the one being bullied is imagining things too much."

- Survey respondent

Case study 5:¹⁷ Discrimination and enrolment

A 15-year-old male with a learning disability who was living independently, wanted to enrol in a local school. However, he was told he could not enrol in the school he wanted as he didn't have a guardian that could sign relevant paperwork, and he was not living in that school's zone. In actual fact, the teen did live in the required zone, and the Department of Education and Early Childhood Development's guidelines allowed him to complete and sign his own enrolment forms. Despite initial resistance from the school and following phone calls and letters to the Principal as well the Department of Education, from various professional advocates, the young person was invited to discuss the issues on his own behalf and was subsequently given the opportunity to enrol. This example highlights the discrimination that young people with disabilities are subjected to when it comes to schooling. It also demonstrates that increased reporting of these matters to government departments can help ensure that policies and processes are actually followed by education providers.

Recommendation

12. That the Government and education providers undertake awareness campaigns so that young people with a disability know where to go for help.
13. That Government develop specific strategies to combat discrimination and victimisation of young people with a disability within the education system.

¹⁷ This case study has been provided by the Youth Disability Advocacy Service at the Youth Affairs Council of Victoria.