

2015 Review of the Disability Standards for Education 2005



Final report

17 July 2015

urbis

URBIS STAFF RESPONSIBLE FOR THIS REPORT WERE:

Directors	Claire Grealy, Linda Kurti
Associate Directors	Julian Thomas (lead author), Poppy Wise
Senior Consultant	Joanna Farmer, Cathy Baldwin
Research Assistants	Christina Griffiths, Olivia Killeen
Group Support	Harriette Keating
Job Code	SPP06515
ISBN	978-1-760 28-452-7



Urbis's Public Policy team has received ISO 20252 Certification for the provision of public policy research and evaluation, social planning, community consultation, market research and communications research

Template version 2015.1.0

All information supplied to Urbis in order to conduct this research has been treated in the strictest confidence. It shall only be used in this context and shall not be made available to third parties without client authorisation. Confidential information has been stored securely and data provided by respondents, as well as their identity, has been treated in the strictest confidence and all assurance given to respondents have been and shall be fulfilled.

Table of contents

- Acknowledgements..... i**
- Key messages ii**
- Executive summary iv**
- Recommendations viii**
- Acronyms and abbreviations x**

- 1 Introduction and project context..... 1**
- 1.1 This document1
- 1.2 Project summary1
- 1.3 Objectives of 2015 review2
- 1.1 Progress since 20103
- 1.2 This document7

- 2 Methodology 8**
- 2.1 Overview.....8
- 2.2 Consultation strategy8
- 2.3 Identified and classified stakeholders9
- 2.4 Analysis and reporting12
- 2.5 Limitations of methodology13

- 3 Stakeholder perspectives 15**
- 3.1 Awareness of the Standards.....15
- 3.2 Advocacy.....16
- 3.3 Language and terminology17
- 3.4 Complaints mechanisms.....18
- 3.5 Standards for enrolment19
- 3.6 Standards for participation23
- 3.7 Standards for curriculum development, accreditation and delivery28
- 3.8 Standards for student support services31
- 3.9 Standards for harassment and victimisation.....35

- 4 Discussion 37**
- 4.1 Awareness, understanding and use37
- 4.2 Aspiration within the Standards.....38
- 4.3 Reasonable adjustments38
- 4.4 Balancing flexibility and specificity.....39
- 4.5 Transparency and accountability39
- 4.6 Transition.....40

4.7	Access and participation.....	40
4.8	Other matters	45
	Glossary of key terms	46
	References	48
	Disclaimer	49
	Appendix A: Submissions and participants	50

Acknowledgements

Urbis wishes to acknowledge the many hundreds of organisations and individuals who have taken the time to make a submission or take part in the review. In particular, we wish to acknowledge the contribution made by people with disability, their families and advocates from all states and territories, as the group whose equitable engagement in Australia's education system is the ultimate intention of the Disability Standards for Education 2005 (the Standards).

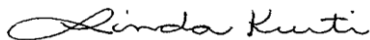
Contributions were also received from a great number of individuals and organisations representing the perspectives of educators and education providers, from all Australian state and territory governments, independent and faith-based sectors, and from human rights commissions and a number of statutory agencies.

We also acknowledge the significant assistance rendered by many disability sector and education sector organisations in promoting the review and supporting the recruitment of participants both to our face to face consultations but also online.

We have employed our best endeavours to provide a faithful and balanced account of the great diversity of views expressed and thank all who have contributed to the 2015 Review of the Disability Standards for Education.



Claire Grealy



Linda Kurti

Project Directors

Key messages

- The Standards remain an important component of a wider policy landscape seeking to ensure people with disability are able to access and participate in education on the same basis as others. Stakeholders provided near universal support for the Standards as a regulatory tool to set down the rights of people with disability and obligations of education providers.
- The extent to which the objectives of the Standards are achieved is dependent on a range of factors including the construction and clarity of the Standards themselves. However, where the Standards provide a static point of reference, the extent to which supporting policies and programs are developed, funded and effectively implemented is what drives outcome achievement.
- Awareness among educators and education providers is relatively high, although there remains a need to continue effort on supporting development of the skills to interpret and apply the Standards in practice. Educators are generally positive about the value of the Standards to their work and the reference point they provide. However, some aspects of the Standards are less clear than others, and there is room to clarify areas of ambiguity.
- Awareness of the Standards among people with disability and their associates is patchy, and is likely to be lower among groups who experience additional disadvantage, including people who are Aboriginal or Torres Strait Islander, from new communities, from low socio-economic backgrounds or who live in rural and remote Australia.
- The inherent flexibility of the Standards is generally appropriate given the diversity of contexts in which they are applied. However, there is a clear divergence in perspective between people with disability and their associates, and education providers around exercise of discretion – particularly in relation to interpretation of the terms ‘reasonable adjustment’ and ‘unjustifiable hardship’.
- The differences in knowledge, perspective and decision-making power mean that effective conversations between the person with a disability (or associate) and the education provider are complex, and require a high level of skill on the part of the provider to reach the best possible outcome.
- Stakeholders consider that the Standards provide a good framework for understanding rights and obligations, but feel that their effectiveness is diminished by reliance on a complaints-based enforcement mechanism. Reliance on people with disability or their associates to lodge complaints places the onus of action on the person with least power in the student-provider relationship.
- Resolution of formal complaints usually occurs through confidential conciliation and this limits the contribution the complaints process makes to systemic improvement over time through precedent setting and publicity. There is a perception that a more proactive model of compliance monitoring would lead to more consistent implementation of the Standards.
- The Standards establish minimum expectations, and do not articulate broader aspirations of social inclusion, achievement of individual potential or inclusive education. There is support for

changes to 'raise the bar' in terms of the expectations of providers set within the Standards, and linking their function to broader objectives of social inclusion.

- The early childhood sector has been undergoing significant reforms which have boosted quality and increased the emphasis on educational function of early years education and care services. The non-application of the Standards to childcare services appears to be an anomaly in this context.
- A large number of submissions were received from parents of school-aged children with learning disabilities who expressed frustration at the limited effective supports available to their children. Many submissions referred to school-based practices that on face value breach the Standards and had resulted in a significantly negative impact on their child.
- Within post-compulsory settings, the application of the Standards to third party providers of practicums, industry placements and course materials are not addressed by the Standards, giving rise to uncertainty around responsibility for provision of adjustments (in the case of placements) or accessible formats (in the case of course materials).

Executive summary

Context

The Disability Standards for Education 2005 (the Standards) were made under the *Disability Discrimination Act 1992* (the DDA) ([Commonwealth of Australia, 2005](#)). The DDA makes it unlawful to discriminate on the basis of disability in a number of areas of public life, including education, employment, the provision of goods and services, and access to public buildings.

The Standards clarify the obligations of education providers, and the rights of students with disability and their families under the DDA. The objectives of the Standards are:

- to eliminate, as far as possible, discrimination against students with disability
- to ensure, as far as practicable, that people with disability have the same rights to equality before the law as the rest of the community in the area of education and training, and
- to promote recognition and acceptance that people with disability have the same fundamental rights as the rest of the community.

Part 11 of the Standards requires that they are reviewed at intervals of five years. Urbis was commissioned by the Australian Government Department of Education and Training to complete the second such review in 2015.

The primary consultation for the review took place over a six week period from late April to mid-June 2015, informed by release of a discussion paper.¹ Over 540 organisations and individuals were directly invited to contribute, and also asked to further promote the review through their networks. This includes 469 invitations to attend the roundtables (223 organisations of people with disability or advocates, 178 educators, 68 for policy makers and regulators).

The review provided multiple channels for participation, inviting public submissions or stories in written, recorded audio or video form, as well as hosting online discussion forums and conducting 30 face to face roundtable consultations and a number of key informant interviews.

In all, the Review enjoyed a high level of stakeholder engagement, with 125 submissions, 99 stories, 882 discussion forum contributions (308 comments, 574 votes) from 114 contributors, and 197 individuals participating in roundtables discussions and a forum in Canberra. During the consultation period (24 April to 12 June) the online engagement site had 5,600 unique visitors, of whom 2,500 took some action (e.g. downloaded a document, clicked a link) on the site and 251 made a contribution of some kind (contributing a comment, story, 'agree/disagree' vote, or a submission).

Findings

There have been a number of positive advances since the previous review of the Standards. Advances which attracted particularly positive commentary from review participants included the implementation of the More Support for Students with Disability (MSSD) initiative, the Nationally

¹ The discussion paper was made available in Large Print, Braille, Audio and Easy English forms.

Consistent Collection of Data on School Students with Disability (NCCD), and the development and delivery of high quality online resources for educators (via the University of Canberra). The proportion of enrolments by students with disability at all levels of education is increasing, although the extent to which this is attributable to better identification rather than growth in underlying enrolment is not clear.

Awareness, understanding and use

There were numerous instances reported of the Standards being used by people with disability to advocate for their rights and to pursue adjustments; however the level of general awareness is patchy, particularly among groups experiencing additional disadvantage (including Aboriginal and Torres Strait Islanders, people from new communities, of low socio-economic status, or living in a rural or remote area). The complaints based framework places the onus on the affected individual or their associate to pursue a complaint; while this is can be challenging for people with disability generally, people experiencing multiple disadvantage may have less capacity to pursue a complaint process despite potentially having greater or more complex needs.

Educators and education providers appear to have good awareness of the Standards, and find them to be a useful guide to their obligations relating to students with disability. Applying the Standards in practice was more challenging, and there were calls to continue and strengthen pre-service and post qualification training for educators, and to provide tools in support of self-audit and service improvement.

Aspiration

Many submissions observed that a key challenge for people with disability is a culture of low expectation; this also infiltrates education settings. The Standards are focused on providing a baseline or minimum expectations, and do not reference broader goals of social inclusion, achievement of individual potential and inclusive education.

Reasonable adjustment

The flexibility inherent in the definition of key terms within the Standards, particularly reasonable adjustment and unjustifiable hardship is generally acknowledged to be appropriate given the broad range of contexts and circumstances to which the Standards apply. However, the same flexibility means that stakeholders frequently come to conversations about adjustments with very different views on what is reasonable; managing these interactions effectively and achieving a good outcome can be supported by a common reference point and development of particular skill on the part of the providers.

Balancing flexibility and specificity

Two further areas related to the Standards were found to warrant further clarification; the requirements of consultation processes and what approaches to personalised learning were preferable. The Standards do not address in detail what the requirements of consultation are, nor provide guidance on individualised or personalised learning plans. Providing further guidance may support a more consistent experience and outcome across different contexts.

Transparency and accountability

A key concern for many stakeholders is the reliance on complaints mechanisms for enforcement of the Standards. While initiatives such as the Nationally Consistent Collection of Data on School Students with Disability (NCCD) are acknowledged to provide a basis for understanding what is occurring, the NCCD will not capture data about students who are not identified as having a

disability, and so will not provide insight into students who may 'slip through the cracks'. There is support in many areas for a more pro-active mechanism for supporting compliance.

Transition

A specific gap within the Standards relates to transition periods into, within and out of education system. There appears to be gaps in the way transition is effectively planned and supported, and this may warrant specific consideration within the Standards.

Access and participation

In terms of access and participation, physical access to education facilities is generally considered to have improved markedly, and there are also numerous examples of very effective adaptive practices by educators that enable access to curriculum. However, there is a high level of dependency on the knowledge, skills and interests of individual educators.

Access and participation by socially disadvantaged groups was also raised by some stakeholders, who noted that the cumulative effects of disadvantage meant that these groups faced higher barriers than others. In some instances, education-related programs or initiatives targeting socially disadvantaged groups were reportedly not compliant with the Standards. As a consequence, people with disability within some socially disadvantaged groups did not have access to the specialised programs on the same basis as other members of the group.

In early childhood settings, the non-application of the Standards to childcare providers is a gap in coverage which may adversely affect equity of access for young children with disability.

In school settings, the complexities of support funding regimes and the reported unwillingness of some schools to deploy core funding to facilitate access and participation by students with disability means that students can be disadvantaged, particularly where they fall just short of a particular threshold to trigger funding.

Assessment is also a frequent area of concern, with inconsistencies between of adjustments between classroom settings and formal assessments leading to uncertainty and anxiety for students. A contributing factor at year 11 and 12 level may be that adjustment decisions are made by an external body in many circumstances.

Post-school, the availability of supports is reported to vary considerably across different types of education institutions, and support funding operates differently in various contexts. A further issue in the post-compulsory setting is interaction of the Standards with third parties, including employers who provide practicums or placements, and publishers who produce educational material. In each case, it is not always clear who is responsible for making (and funding) adjustments or accessible materials.

Stakeholders also reported that providers of vocationally-directed education and training (including degree courses) were excluding students who they did not consider could fulfil the inherent requirements of the related vocation. The practice occurs inconsistently across different institutions (who offer the same qualification) and its appropriateness is contested.

Other matters

The practical intersection of the Standards and the National Disability Insurance Scheme (NDIS) in terms of responsibility for and continuity of supports was also raised as a current concern. Education

providers and others also noted that there may be benefit to clarifying the intersection of the Standards with other related legislation/regulation.

Limitations

The review focused on gathering the perspectives of a diversity of stakeholders in a contained period of time, and a number of limitations are noted. These include:

- A number of stakeholders noted that the six week consultation timeframe coupled with a concurrent review of the *Disability (Access to Premises - Buildings) Standards 2010* and the Senate Inquiry into Abuse of People with Disability may have limited participation.
- Perspectives gathered through the review are from 'self-selecting' contributors and are not representative; time constraints may also have resulted in a biased sample.
- There was insufficient time to secure ethics approval or secure working in schools permissions required to consult with young people; consequently the predominant voice relating to early years and schooling is that of parents.
- Some technical issues were experienced with delivery of two of the accessible documentation formats offered, resulting in delayed access for some groups. In particular, the Easy English version was released late in the process (an extension for submissions was granted to those requiring this format).

Recommendations

Recommendation 1: That the Australian Government work with State and Territory governments and relevant peak bodies to produce consistent, accessible summaries of rights, obligations and complaints processes tailored to different education settings, and in a range of accessible formats and languages including, for example, languages other than English (including Indigenous languages), and Easy English. These resources should also:

- affirm the Standards' contribution to people with disability achieving their full potential in education contexts,
- affirm the desirability of inclusive education practices and the role of education in fostering social inclusion more generally,
- affirm that the Standards apply equally to the delivery of education programs and initiatives targeting socially disadvantaged groups, and
- affirm that the Standards apply to transition points into, between and out of education settings.

Recommendation 2: That the Australian Government work with State and Territory governments to ensure that an accessible summaries of rights, obligations and complaints processes is provided to all prospective students as part of enrolment processes in every education settings; published on every education institution's website; and is prominently displayed in education facilities.

Recommendation 3: That the Australian Government develop a range of exemplars of good practice which illustrate effective adjustments, including how decisions are made on what is 'reasonable'. The exemplars should be accessible to both education providers and to students with disability or their associates and serve to support development of a common language and understanding.

Recommendation 4: That the Australian Government work with professional bodies for educators (and education administrators) to strengthen access to and uptake of substantive training in disability in pre-service and in-service training, to support the effective implementation of the Standards. This should include skills-based training focused on effective conversations in the context of the Standards' intent to engage and retain students with disabilities in education.

Recommendation 5: That the Australian Government, in conjunction with State and Territory governments and the sector develop guidance for education providers in relation to:

- the intersection of the Standards with privacy legislation (specifically in relation to engaging with associates of adult students),
- the intersection of the Standards with other major legislative and regulatory instruments relating to disability,
- the intersection of education providers' responsibilities under the Standards for provision of reasonable adjustments and support, and the responsibilities of the NDIA under the NDIS,
- the role of education providers in ensuring application of the Standards to education activities conducted outside the classroom (particularly industry placements/practicums), and

- the legality of excluding students from vocation-directed education on the basis that the prospective student may not be able to fulfil the inherent requirements of that vocation .

Recommendation 6: That the Australian Government develop nationally consistent tools to enable education institutions to conduct 'self-audits' of their compliance with the Standards.

Recommendation 7: That the Australian Government work with State and Territory governments to improve consultation practices with students or their associates, including development of policies or procedures on personalised planning for students with disability which outlining the type of consultation required, the frequency of consultation and how consultations are to be documented.

Recommendation 8: That the Australian Government work with State and Territory governments to provide consistent guidance on best practice approaches to planning for personalised learning, including guidance on the use and content of individual learning plans (or equivalent) and the need for periodical review.

Recommendation 9: That the Australian Government consult with State and Territory governments about the feasibility of coordinated collection and analysis of relevant complaints data at the national level (and potentially institution level), to improve transparency of system performance.

Recommendation 10: That the Australian Government explore the feasibility of a nationally consistent monitoring and accreditation model to strengthen proactive compliance with the Standards that would complement the present complaints-based compliance model.

Recommendation 11: That the Australian Government consider extending the application of the Standards to included childcare providers.

Recommendation 12: That the Australian Government work with states and territory statutory authorities responsible for curriculum and assessment explore strategies to improve continuity and consistency of adjustments between classroom and assessment contexts.

Recommendation 13: That the Australian Government work with State and Territory governments to improve the consistency of funded supports for people with disabilities in different post-compulsory educational settings to ensure equitable access across settings.

Recommendation 14: That the Australian Government work with public and private academic publishers to develop strategies to increase the availability of academic texts and other education resources in Create Once/Publish Everywhere (COPE) formats that allow ready adaptation to various accessible forms.

Acronyms and abbreviations

ACRONYM	EXPANDED MEANING
ABS	Australian Bureau of Statistics
ACARA	Australian Curriculum, Assessment and Reporting Authority
ACE	Adult Community Education
ACT	Australian Capital Territory
ADHD	Attention Deficit Hyperactivity Disorder
ASD	Autism Spectrum Disorder
Better Start	Better Start (programme) for Children with Disabilities
CALD	Culturally and linguistically diverse
COAG	Council of Australian Governments
COPE	Create Once Publish Everywhere
DDA	<i>Disability Discrimination Act 1992</i>
DSP	Disability Support Programme
Education Council	Formerly the Standing Council on School Education and Early Childhood
HCWA	Helping Children with Autism
IDEA	Individuals with Disabilities in Education Act
IEP	Individual Education Plan
ILP	Individual Learning Plan
MSSD	More Support for Students with Disabilities initiative
NAPLAN	National Assessment Program – Literacy and Numeracy
NCCD	Nationally Consistent Collection of Data on School Students with Disability
NCVER	National Centre for Vocational Education Research
NDIS	National Disability Insurance Scheme
NDS	National Disability Strategy 2010–2020
NSW	New South Wales
NT	Northern Territory
PWD	People with disability
RTO	Registered Training Organisation
SA	South Australia

ACRONYM	EXPANDED MEANING
TAFE	Technical and Further Education
the department	Australian Government Department of Education and Training
the Standards	Disability Standards for Education 2005
VET	Vocational Education and Training
WA	Western Australia

1 Introduction and project context

1.1 This document

This document is the report for the 2015 Review of the Disability Standards for Education 2005 (the Standards). The report sets out the background, approach and methodology used in the consultation, provides a discussion of the broad range of stakeholder perspectives contributed to the review, and draws together the overall findings and recommendations to Government.

1.2 Project summary

The Standards were formulated under the *Disability Discrimination Act 1992* (DDA) to ensure that students with disability can access and participate in education on the same basis as other students. The Standards require that the Minister for Education and Training, in consultation with the Attorney-General, conduct reviews to be completed at intervals of no more than five years. The first review of the Standards occurred in 2010.

This 2015 review sought to determine whether the Standards remain an effective mechanism for the Australian Government to achieve the objectives of the DDA in the education sector.

The review of the Standards was overseen by a Steering Committee with representatives from the Department of Education and Training (Schools, including early childhood education, Vocational Education and Training, and Higher Education) and the Attorney-General's Department.

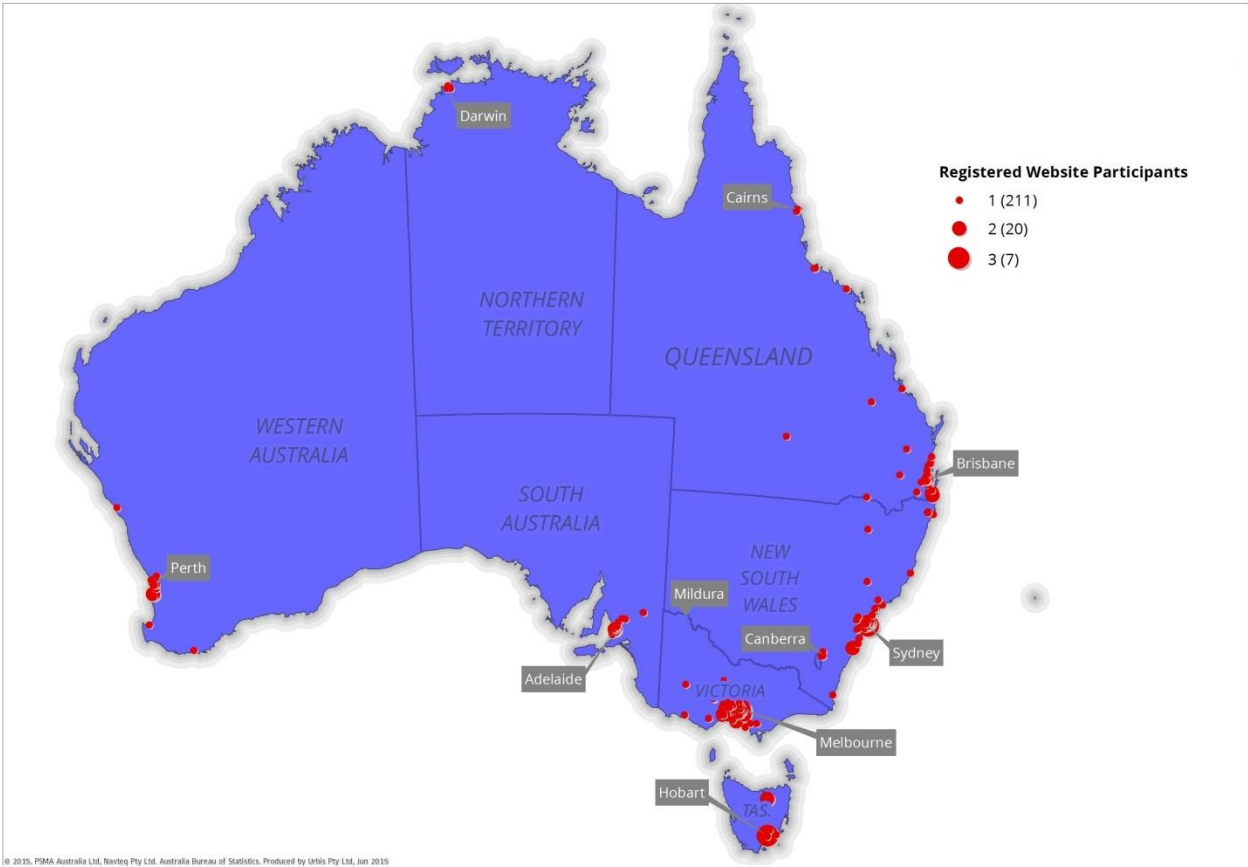
The approach adopted has been built around an extensive consultation process that has engaged with the perspectives of students with disability and their families, policy makers and regulators, and education service providers. A draft consultation paper was developed and submissions invited via a specific-purpose website during May and June 2015. Face-to-face roundtable consultation took place in all capital cities and two regional centres, supplemented by additional interviews with key informants. Over 540 organisations or individuals were directly invited to contribute, and also asked to further promote the review through their networks. This includes 469 invitations issued to attend the roundtables (223 organisations of people with disability or advocates, 178 educators, 68 for policy makers and regulators).

The review has been informed by 224 written submissions (including formal submissions and personal stories), 882 contributions (308 comments, 574 'agree/disagree' votes) to five discussion forums from 114 contributors, 30 roundtable discussions and workshops engaging 197 individuals, plus a number of key informant interviews. During the consultation period (24 April to 12 June) the online engagement site had 5,600 unique visitors, of whom 2,500 took some action (e.g. downloaded a document, clicked a link) on the site and 251 made a contribution of some kind (contributing a comment, story, vote, or submission).

While some contributors have taking part in more than one engagement approach, in total the review is estimated to have considered substantive contributions from approximately 500 individuals

from all over Australia. [Figure 1](#) shows the locations of registered website participants (red dots) and the locations of the face to face consultations (named cities).

FIGURE 1 – WEBSITE ENGAGEMENT: REGISTERED PARTICIPANT LOCATIONS



1.3 Objectives of 2015 review

The 2015 review set out to determine whether the Standards remain an effective mechanism for the Australian Government to achieve the objectives of the DDA in the education sector.

In reviewing the effectiveness of the Standards, the terms of reference for the review were to:

- Consider whether the Standards:
 - have assisted people with disability to *access and participate* in education and training opportunities on the same basis as those without disability. This includes a review of participation, inclusion and educational support provided to students of all backgrounds, including students in regional, rural and remote areas, students of culturally and linguistically diverse backgrounds, and Indigenous students.
 - have assisted to *raise awareness and eliminate discrimination* (including harassment and victimisation) of people with disability in education and training.
 - *are understood and used by education and training providers* to provide a quality education which meets students’ needs.

- *are understood and used by students with disability* of all backgrounds and their families to advocate for their rights.
- Identify any recommendations to improve the Standards.
- Examine progress with the implementation of the Government's response to the 2010 review of the Standards.

1.1 Progress since 2010

There are a significant number of programs underway that reflect progress since the prior review. This section summarises key initiatives and progress with the implementation of the Government's response to the 2010 review of the Standards (Commonwealth of Australia, 2012).

The Government response to the last review was centred around consolidation of legislation. The project to consolidate Commonwealth anti-discrimination laws into a single Act was a proposal of the former Government. It was not ultimately progressed during the previous Parliament. The project is not part of the current Government's policy.

1.1.1 Recommendations of the 2010 review

There are a number of recommendations in the 2010 review which have not been implemented, or have re-occurred in this review due to the persistence of the underlying issue. A significant number of stakeholders made reference to the continuing relevance of many of the recommendations from the 2010 review, and this is reflected in a degree of overlap with the recommendations in this report.

In particular, these include:

- aspects of 2010 recommendation 1, which focused on raising awareness and information provision, including mandatory provision in all enrolment packages. The underlying issues relating to low awareness that gave rise to this recommendation remain of concern to stakeholders, although there has been progress with the development of various factsheets and resources and the creation of a dedicated website.
- 2010 recommendation 3 included a recommendation that childcare providers be included within the scope of the Standards; this recommendation remains relevant and is echoed in the present report.
- 2010 recommendation 4 focused on development of user friendly, sector-specific guidance to support consistent interpretation of key terms ('reasonable adjustment', 'unjustifiable hardship', 'consultation' and 'on the same basis'), while recommendation 7 proposed development of resources for education providers to support better practice. While a range of resources are now available, there continues to be room for improvement, and this is reflected in a number of the present report's recommendations.
- 2010 recommendation 10 proposed exploration of improvements to compliance reporting; in 2015, proactive transparency and accountability is a high priority for stakeholders and retains prominence in this 2015 report.

- 2010 recommendation 11 focused on improving transitions between education sectors – this remains an area for further work.

1.1.2 National Disability Strategy

The *National Disability Strategy 2010–2020* (NDS) sets out a ten-year national policy framework for improving life for Australians with disability, their families and carers ([Commonwealth of Australia, 2011](#)). It provides a national approach to the development of policies and programmes. The NDS was endorsed by the Council of Australian Governments (COAG) in 2011 and has six priority areas for action:

1. inclusive and accessible communities
1. rights protection, justice and legislation
2. economic security
3. personal and community support
4. learning and skills
5. health and wellbeing.

In terms of learning and skills, the NDS identifies areas for future action, including:

- reducing barriers to access
- appropriate strategies that reflect the NDS in national partnership agreements to do with education, skills and workforce development and teacher quality
- innovative and responsive learning strategies for students with disability
- options for reporting on educational outcomes of students with disability
- establishing best practice for transition planning through all the stages of learning
- responding to the review of the Standards
- ensuring the Early Years Learning Framework, Australian Curriculum and national assessment processes include the needs of students with disability
- promoting leadership development for people with disability.

1.1.3 Implementation and review of the More Support for Students with Disabilities Initiative (2012–2014)

The MSSD initiative ran from 2012–2014 and provided a total of \$300 million funding to state and territory education authorities. This was via a National Partnership Agreement with the government sector and to the non-government sector through individual aligned funding agreements. The aim of the MSSD was to build the capacity of schools and teachers to improve the learning experiences and educational outcomes of students with disability in partnership with parents, carers and students. It also aimed to help schools provide a smoother transition to further education or work.

Education authorities and sectors were able to use MSSD funds for activities that were focused around:

- using assistive technologies to support teaching and learning
- developing networks of expertise between schools and health professionals to strengthen schools' support of students with disability
- training school leadership and staff around the Standards and skills for inclusive education
- support to assess students and adapt the curriculum to individual need, as well as developing collaborative teaching practice
- supporting students to transition through the stages of schooling and training.

The initiative has been evaluated and at the time of writing the draft evaluation report was being considered by government. The draft evaluation notes that:

The MSSD initiative has achieved its major objective to build the skills of teachers and increase school capacity to better meet the educational needs of students with disability. (PhillipsKPA, 2015)

Overall, the draft evaluation is highly positive, and in particular notes that the MSSD initiative:

... generated or complemented systemic changes and in turn shifted policy and practice as the new approaches to took effect. Most if not all authorities report that MSSD has led to or dramatically accelerated change. (PhillipsKPA, 2015)

1.1.4 Nationally Consistent Collection of Data on School Students with Disability

In 2013, after two years of trials, the Standing Council on School Education and Early Childhood (now Education Council) endorsed a model for the Nationally Consistent Collection of Data on School Students with Disability (NCCD).

From 2015, all schools are participating in the collection of data. Once implemented, the NCCD will provide for the first time nationally consistent information on the numbers of students with disability and the broad level of support that they are provided in school. Teachers and schools use their professional judgment in order to determine the level of adjustment that each student is currently provided with. A key purpose of the NCCD is to embed into everyday school practice the requirements and responsibilities under both the DDA and the Standards. Resources have been developed to help school leaders, teachers and parents understand the national data collection.

1.1.5 National Disability Coordination Officer Programme

The National Disability Coordination Officer (NCDO) Programme was in place prior to the 2010 review, and continues to address barriers to and facilitate transition between school, tertiary education and employment for people with disability. It does this by improving the coordination and collaboration among service providers in 31 regions across Australia and building their capability to support people with disability. This includes providing information about the Standards during the

past five years which has made a contribution to efforts to improve awareness (including via the [NCDO programme website](#)).

1.1.6 Early Intervention Packages

The Australian Government offers early intervention services to children through two key programmes: Helping Children with Autism (HCWA) and Better Start for Children with Disability (Better Start). More than 2,100 service providers have registered to provide early intervention through HCWA, and more than 1,900 through Better Start.

As the National Disability Insurance Scheme (NDIS) is rolled out across Australia, children supported through HCWA or Better Start will transition to the NDIS.

1.1.7 Standards for Registered Training Organisations

The VET Quality Framework provides national consistency for the registration of RTOs, and monitors how VET standards are enforced. Standard 8 of the Standards for Registered Training Organisations 2015, specifies that Registered Training Organisations (RTOs) must comply with all relevant legislative and regulatory requirements, including anti-discrimination legislation and regulations. The Standards came into effect in April 2015.

Of additional relevance are Standards 1 and 5. Standard 1 strengthens the requirements of RTOs to take into account learners needs and provide educational and support services to learners, while Standard 5 requires that RTOs provide information to learners about the services the RTO will provide (including support services).

1.1.8 Review of the Higher Education Disability Support Programme

The Higher Education Disability Support Programme provides funding to higher education providers to remove barriers to access for students with disability. The Programme also provides funding to maintain the [Australian Disability Clearinghouse on Education and Training website](#), currently hosted by the University of Tasmania. The website provides information about the Standards, and other resources designed to promote inclusive practices for people with disability. The programme is currently being reviewed.

1.1.9 National and state reviews

A desktop analysis has been completed that summarises reviews of 'special education', which have occurred both nationally and at the state/territory level.

At the Commonwealth level, a joint working group was established in 2011 to advise the Standing Council on School Education and Early Childhood (now the Education Council). The Joint Working Group has guided the development of the NCCD. It also provides advice to the Schools Policy Group on funding, and progresses the recommendations related to schools in the 2010 review.

Other Commonwealth initiatives have included:

- the development of the NDS
- a review of best evidence about inclusive education, undertaken by the Australian Research Alliance for Children and Youth

- the evaluation of the MSSD
- the development of the National Framework for Reducing and Eliminating the Use of Restrictive Practices in the Disability Services Sector ([Disability Reform Council, 2014](#)).

The ACT, NSW, Queensland, Victoria, and Tasmania have all conducted a review of education for students with disability, between 2009 and 2015.

1.1.10 Activity stocktake of jurisdictional activities and resources

A stocktake of jurisdictional activities and resources, undertaken by the Department of Education and Training was published in June 2014 ([Department of Education, 2014](#)). The stocktake brings together existing activities and resources that promote the Standards. This 'evidence bank' is intended to be used to identify gaps and to develop materials to address these information gaps.

1.1.11 Promotional resources

In response to the 2010 review, a series of fact sheets were developed about the Standards for students, parents and schools. These include fact sheets on the DDA, the Standards, parental engagement, effective consultation, and the complaints process. All fact sheets are available on the [Australian Government Department of Education and Training website](#).

The Department of Education and Training's Office for Learning and Teaching provided a grant to the University of Canberra to develop HEADS-UP (Higher Educators Advancing Disability Standards - Universities online Project), a collaborative initiative which aimed to assist staff in Australian universities to meet their obligations regarding the Standards. The e-learning resource, available as a series of downloadable packages, enables universities to customise the training to their own contexts and embed it in their Learning Management and Human Resources systems. The project completed in June 2012, and the final product was freely provided directly to all Australian universities to upload onto their own training systems.

1.2 This document

This document contains four main sections. This section (Section 1) contains the introduction and provides background and context for the review.

Section 2 details the review methodology, consultation strategy and reach, analytical approach. Section 2 also sets out key limitations of this review.

Section 3 presents stakeholder perspectives gathered through submissions and stories, roundtable discussions and participation in online discussion forums.

Section 4 provides discussion and analysis of key themes emerging from the review.

2 Methodology

This section details the consultation strategy adopted for the 2015 review, including the approach taken to identifying stakeholders, recruitment and engagement strategies employed, the schedule followed, and how the process met accessibility requirements. The analytical and reporting strategies and methods, and the limitations are also described.

2.1 Overview

A high-level, four phase approach was adopted to complete the review and conducted between April and July 2015. The four phases were:

1. **Inception and Planning:** in this phase, Urbis drafted the project plan, mapped and analysed the range of stakeholders, prepared the consultation strategy, drafted key consultation materials, prepared the data capture system - NVivo - including a preliminary coding frame, developed the strategies and methods for stakeholder recruitment and engagement, and prepared and finalised the Discussion Paper.
2. **Field Consultation:** in this phase, Urbis finalised fieldwork logistics and consultation tools (e.g. information for stakeholders, and facilitator materials), and issued invitations to stakeholders. Fieldwork teams were briefed, and the face-to-face consultation activities were undertaken. Afterwards, the teams were debriefed, and 'real time' coding and analysis of the data collected was carried out using NVivo.
3. **Written, Audio and Web Consultation:** in this phase, the Discussion Paper was released, the consultation website was launched and engagement via the site commenced. Targeted promotion and recruitment activities were undertaken. This phase occurred simultaneously with phase 2.
4. **Analysis and Reporting:** in this phase, topline analysis of all collected datasets was completed using NVivo. An internal workshop was held to test preliminary findings, and additional analysis integrated, as clarified during the workshop. A draft report and a final report were completed.

2.2 Consultation strategy

The consultation strategy sought to maximise opportunities for obtaining the greatest number of stakeholder contributions within the available timeframe of five weeks. An inclusive and flexible approach to engagement was adopted, using a range of technologies and networked marketing techniques (including advertising via third parties and word of mouth in the sector) to enable broader and deeper sector engagement.

2.2.1 Accessibility and participation

Key strategies for ensuring that the process was as inclusive as possible included:

- Provision of key review materials in a number of alternative formats, including:

- Braille
 - Large print
 - Audio recorded
 - Easy English.
- Utilisation of multiple channels for participation including invited roundtables held in every capital city as well as Cairns and Mildura, supplemented by targeted telephone interviews. Auslan and live captioning were made available at venues where required by participants.
 - Development of a WCAG 2.0 (AA) compliant online platform for public consultation and the use of interactive discussion forums, opportunities for people to share their stories, and capacity to upload audio recorded, video, or written submissions.

A survey of roundtable participants focused on the quality of facilitation and venues, as well as the accessibility of consultation. At 16 July 2015, 76 responses had been received (a response rate of 43%). Key points included:

- 89.5 per cent of respondents rated the venues as good or excellent, and 10.5 per cent as poor or fair.
- 97.4 per cent of respondents rated the facilitation by the review team as good or excellent, and 2.6 per cent as fair. None rated facilitation as poor.
- 11.8 per cent of participants identified themselves as having specific accessibility requirements, and of these, 77.8 per cent rated the accessibility of the session as good or excellent, and 22.2 per cent as poor. The poor ratings appeared to relate primarily to below standard physical access at one venue.

2.3 Identified and classified stakeholders

A range of stakeholder groups was identified and targeted for consultation and engagement. Each of the stakeholders group was comprised of a number of sub-groups, as indicated in [Table 1](#).

TABLE 1 – STAKEHOLDER ANALYSIS

GROUPING	DESCRIPTION
Students, families and carers	Included students with disability, their families/carers, student or parent representative groups/associations, disability associations
Educators and Education providers	Government and non-government school staff, VET provider and higher education provider staff, early childhood education staff, principals associations Early childhood education peak bodies, independent/catholic schools associations, special education associations, higher education peaks
Policy makers, funders and regulators	Commonwealth, state and territory education departments, human rights commissions, disability monitors
Experts	Other identified expert groups/individuals

An initial sector scan was completed which built on contact lists supplied by the Department. The scan ultimately identified 540 individual email addresses spanning some 220 organisations which were targeted with either an invitation to participate in state-based face-to-face consultation or to make a written submission.²

Further promotion of the consultation process occurred through social media and through communication networks of key stakeholders, who were provided with sample 'collateral' for use in traditional and social media communication channels.

Five key questions were asked of all stakeholder groups, drawing on the terms of reference set out in section [1.3](#). The format and style of the questions varied depending on the specific audience or format of consultation, and different emphasis was given to different groups with expected knowledge in particular areas.

The general configuration of consultation approaches and each key participant group is summarised in [Table 2](#). Invitations were issued to a large number of organisations via direct and personalised contact (e.g. by email), including a request that they promote the review through their newsletters, on websites, and through social media, which many did. Urbis monitored engagement and followed up with key organisations to prompt participation where particular perspectives were under-represented. Roundtable consultations targeted three stakeholder groups: roundtable one focused on educators; roundtable two focused on policy makers and funders; roundtable three focused on peak bodies for people with disabilities, their associates and advocates.

Individuals and groups were added to the invitation lists throughout the consultation process so as to include anyone who wished to participate. Some were identified by the department, others who had not been directly invited self-identified, and others were identified by Urbis.

² This figure of 540 invitations includes instance where multiple individuals in a single organisation were targeted.

TABLE 2 – CONSULTATION APPROACHES FOR EACH STAKEHOLDER GROUP

STAKEHOLDER GROUP	WEB PORTAL (FORUMS, STORIES)	WRITTEN, AUDIO, OR VIDEO SUBMISSIONS	KEY INFORMANT INTERVIEW	ROUND-TABLE 1	ROUND-TABLE 2	ROUND-TABLE 3
Students, families and carers (individuals)	✓	✓				
Students, families and carers (representative groups/peaks)	✓	✓	✓	✓		
Educators (individuals)	✓	✓				
Educators (representative groups/peaks)	✓	✓	✓		✓	
Education providers	✓	✓	✓		✓	
Regulators and monitors	✓	✓	✓			✓
Policy makers and funders	✓	✓	✓			✓
Experts	✓	✓	✓		✓	✓

2.3.1 Schedule

[Table 3](#) sets out the schedule for each of the key consultation activities, including for roundtables that were held in ten locations over the last two weeks of May and the first week in June. Three roundtables were held in each capital city, and two round-table style consultations (round-tables) in each regional centre (marked with *). Policy makers and regulator session were only held in capital cities.

TABLE 3 – CONSULTATION SCHEDULE

CONSULTATION ELEMENT	DATES AND COMMENTS
Web portal	Dedicated web portal located at www.dsereview.urbis.com.au was launched on 24 April Promotion commenced on 29 April 2015.
Written submissions	Written submissions were invited from 29 April, Electronic submissions were accepted through the web portal or via email, and hard copy via post.
Key informant interviews	These were scheduled over the course of the consultation period and were dependent on interviewee availability.
Darwin round-tables	Monday 18 May 2015
Cairns round-tables*	Tuesday 19 May 2015. Cairns was selected as a regional site because of its positioning as a large regional centre, the presence of both university and TAFE sectors in addition to early childhood and schools, and a high Indigenous population.
Schools and Youth Stakeholder Forum (Canberra)	Tuesday 19 May 2015. Urbis ran two workshop sessions with participants in the Schools and Youth Stakeholder Forum held in Canberra.
Sydney round-tables	Wednesday 20 May 2015
Canberra round-tables	Thursday 4 June 2015
Brisbane round-tables	Thursday 21 May 2015
Hobart round-tables	Monday 25 May 2015
Perth round-tables	Monday 25 May 2015
Mildura round-tables*	Tuesday 26 May 2015. Mildura was selected as a regional site because of its positioning as a small regional centre and border town (providing potential insight into two state systems), the presence of both university and TAFE sectors in addition to early childhood and schools.
Adelaide round-tables	Wednesday 27 May 2015
Melbourne round-tables	Thursday 28 May
Roundtable consultations finalised	Thursday 28 May 2015
Web portal and submissions closed	Friday 5 June 2015 (a number of extensions were granted to 12 June on request)

2.4 Analysis and reporting

The approach to completing the analysis and producing this report was designed to maximise the integration of different sources of commentary and data in a relatively limited period of time. The

timing of the project required that this work was commenced while consultation teams were still ‘in the field’ and while the consultation paper remained open for response – hence there was a focus on using effective data capture system which allowed for thematic analysis to occur on live data.

The early analysis enabled the review team to start shaping the report and draw out key themes which signalled value in deeper secondary analysis of the data in some areas. This also ensured that every individual submission and contribution was able to be considered in the timeframe.

For qualitative analysis of submissions, comments and outputs from face-to-face consultation (transcripts), a coding frame was developed to enable thematic analysis of a large volume of qualitative data. It enabled submissions, stories, website comments, interviews and roundtable transcripts to be coded according to the details of the source of data, the context and informational content (e.g. which standard was related to a particular comment). Our approach to coding was iterative and the coding frame was refined as the analysis progressed.

All facilitators, the coding team and report authors took part in an internal ‘sense-making’ workshop where the data and preliminary analysis was put on the table and a structured discussion took place about its meaning and implications.

Report authors were then able to access summary reports from NVivo focused on key themes, issues, contexts (e.g. early childhood, schooling, post-compulsory) and perspectives (e.g. students/parents, educators, policy makers). This was supplemented by ad hoc keyword searching of the complete NVivo database.

Report sections were peer reviewed for consistency and completeness, and reviewed by senior project leaders for quality control and analytical rigour.

2.5 Limitations of methodology

There are a number of specific limitations associated with the methodology employed for this review.

2.5.1 Timing and conflicts with other reviews

The five-week timeframe associated with the key consultation period impacted on recruitment to the roundtable events and on participants’ responses to the review itself. Some participants provided feedback that they did not have sufficient time to prepare a submission, or had only become aware of the process sometime after it had commenced, which limited their opportunity to contribute. A small number of organisations indicated that the timeframe did not allow them to consult with their own membership in order to develop a representative submission. In response, the Department agreed to extend the submission deadline by a week.

In addition, several stakeholders noted that the sector's capacity to respond to the review was compromised by its concurrency with the review of the Access to Premises Standards under the *Disability Discrimination Act 1992* and the Senate Inquiry into Abuse of People with Disability.

2.5.2 A non-representative sample

Although the roundtables included a broad spectrum of participants and the provision of online consultation opportunities resulted in a high level of engagement and participation, it may have excluded those without access to computers or with specific access requirements. These constraints were intended to be partly offset by the provision of consultation documentation in a range of accessible formats, and enabling submissions to be made in written, audio or video formats. However, no submissions were received in audio or video form, and it appears this opportunity was less attractive to those with communication or text access requirements than was hoped.

In addition, the approach adopted to roundtable consultations was an invited process which focused on organisations. This limited opportunities for individuals to participate in the review on a face to face basis, although participation in the sessions for people with disability, families and advocates were opened up for the second half of the consultation period, and no prospective contributor was refused participation in a roundtable session.

While all state and territory governments and relevant agencies were invited to participate, the review sample is unlikely to be 'representative' per se, particularly from the vantage point of people with disabilities. This is due to a number of factors, including the complexity of the sector with a large number of sub-sectors and smaller bodies representing particular interests or perspectives.

2.5.3 Limited consultation with young people

In addition, the review team was of the view that direct consultation with people with disabilities who were under the age of 18 would require Human Research Ethics Committee approval, and this was not attainable in the timeframe available to the review. Consequently, the included data carries a strong bias toward the voices of parents, rather than school aged students and children.

2.5.4 Technical Issues with accessible documentation

Some issues were raised by stakeholders about the accessibility of the discussion paper. While versions were made available in large print, braille, and audio form, the release of an Easy English edition suitable for people with intellectual disabilities was delayed. While the accessibility issues were resolved, the delayed provision reduced the time available to some groups of stakeholders to participate in the review; as a consequence, the timeframe for submissions was extended for affected groups.

3 Stakeholder perspectives

This section provides a thematic analysis of a range of stakeholder perspectives gleaned from the consultation process. It is important to note that the consultation process was not representative, in that some groups featured disproportionately in submissions, and that in general, consultation processes of this kind elicit contributions more frequently focused on areas for potential improvement rather than affirmations of success.

3.1 Awareness of the Standards

Generally, the Standards were thought to have contributed to a raised level of awareness among educators of access and inclusion issues for people with disabilities, part of an ongoing societal process of recognition and inclusion of people with disabilities:

One area of significant improvement over the last five years has been in the area of early year's provision. Many early years providers had previously asked the question of whether the DSE applied to them as providers; this no longer occurs as staff have developed greater understanding of the Standards for their work. (Department of Education, Tasmania).

A lot of our colleges now would have the disability standards as a regular talking point on their meeting agendas which probably would never have been the case. (Educators roundtable).

However, stakeholders reported that there is much more to be done. Of particular concern for many stakeholders is the reportedly low level of awareness among parents of children with disabilities, and in the post-compulsory sector, among students themselves.

The knowledge of the policy and Act is not consistent across the schools. (Peaks and advocates roundtable)

(There is) under-awareness of people's entitlements and rights and also of how the system works and...what options are available to your child for a parents' perspective here... There is general under-awareness and it is more concentrated in lower SES groups. (Educators roundtable)

Some stakeholders did note that they had been able to leverage the Standards for wider change by tying them into other inclusion strategies.

Two pieces of work in particular under the National Disability Strategy have had a positive impact on developing understanding of the Standards in several areas. These were personalised learning through the Australian Curriculum for students with disability, and the Nationally Consistent Collection of Data on School Students with Disability (NCCD). This would have been less likely if the Standards were used in isolation.

Finally, while stakeholders did not generally consider that the Standards had raised broader community awareness of the barriers faced by people with disability seeking to access education,

there were examples cited where inclusive practices within an education community had a broader positive impact.

The Standards have helped the Special Education teacher to have a respected voice in their school community. The DDA provides the focus and ensures compliance whereas the Standards have helped schools in my community to understand the "how" to support students with disabilities as well as set an expectation for support and engagement. (Online discussion thread).

3.2 Advocacy

In order for the Standards to act as a tool for advocacy, students with disabilities and their carers need to know they exist, understand the implications, and be willing to use the Standards in discussions with providers. The review found awareness of the Standards among families is low; parents who did know reported they find it difficult to argue the definition of reasonable; and many contributors to the review spoke plainly of their hesitancy to use the Standards as an advocacy tool for fear of “making things worse”, “fear of backlash”, and “fear of reprisal” (Parents and advocates roundtables).

Equally, where an advocate familiar with the Standards has supported the parent in school engagement, positive results were often reported. In these stories it is the advocate calling the provider to account for adherence to the Standards, and for transparency in the decision making process. Many parents discussed the burden of their role as an ongoing advocate for their child.

I had to find a school that had heard of dyslexia and were prepared to accept her, knowing that they would need to make accommodations. I resigned from my job and it took 3 months of full-time 'work' to make this happen. (Online discussion thread, parent of child with dyslexia)

Notwithstanding examples of poor adherence to the Standards, examples of active utilisation by educators and educational settings were also contributed to the review. Students and parents talked about their experience of having an advocate “on the inside” – an educator or principal with a clear commitment to achieving equality for their child which seemed at odds with their experience of the wider education system.

We have a principal who recognises that dyslexia can be supported with relatively easy changes to how a child is taught. He is willing to invest in evidenced based teacher training. Most importantly, he is listening to parents and seeking support where he can. My son's teacher is also incredibly supportive and is actively seeking further understanding of dyslexia. This week we were discussing a plan for his learning and she said 'we need to understand how he learns'...she gives me hope that he can achieve great things this year. (Online discussion thread, parent of child with dyslexia)

Ultimately, the Standards are seen to rely on the will of committed individuals, which means that the Standards are applied on a discretionary basis. They are more likely to be met when a parent has the

personal resources to advocate effectively, or brings in an external advocate – generally when the trust between the school and the parent has already broken down.

We are the lucky ones – our schools have many individuals who give ‘above and beyond’. This situation is driven by individual schools’ kindness and determination but not necessarily embedded in our education system, particularly in regards to funding. (Online submission, parent of child with vision impairment)

To some extent the Standards act as a positive reminder to all providers of their obligations.

Sometimes you actually do walk [students] through the standards, particularly some of those if you're using assistance through the guidance notes, along things like well, the university has to maintain the academic integrity of the program and so the degree you graduate with has to be of a same professional standing as someone else. You have to undertake the same qualification, not the same experience. (Educators roundtable)

However, the use of language which is open to interpretation and that is applied at the discretion of providers continues to give rise to mismatched expectations. For example, what a parent believes is a ‘reasonable adjustment’ for their child can be argued by a school as unreasonable.

Setting aside the matter of language for a moment, the nature of the conversations required between parents, students and providers are highly sensitive, and require skill on both sides to reach a mutually agreeable interpretation of reasonable, access and participation. There is some evidence from the review, (from parents, educators and advocates) that educators need to be better equipped to engage parents in these discussions. At present, stakeholders suggested there is an over-reliance on individuals’ skills, evidenced by the frequency with which parents identify both individuals who enabled access and individuals who acted as a barrier to access.

3.3 Language and terminology

In general, educator stakeholders approved of the flexibility afforded by the Standards, making the point that adjustments need to be made around the needs of the individual student rather than be prescribed by a standards document. Equally, parents and advocates were generally positive about the language of the Standards, but were critical of the discretion available to educators and to the failure to implement the Standards effectively in reality. Stakeholders commented on specific terms in the Standards which cause confusion among educators, students and parents.

The Standards have provided a common language with which to discuss the provision of education for students with disabilities, but it is also the case that certain terminology has, in practice, raised further issues that need to be addressed. (Submission, Independent Schools Council of Australia)

The Standards do not contain adequate practical definitions of terms such as ‘reasonable adjustment’, ‘unjustifiable hardship’ and ‘consultation’ and this affects the application of the Standards. (Submission, Australian Education Union)

The following terms were highlighted by stakeholders as requiring further clarification in the Standards, or in the form of exemplars which would provide greater guidance to students and education providers:

- disability – stakeholder reported inconsistent awareness of the broad legal definition of disability, thought to be partly caused by the 'thresholds' applied within some funding models
- reasonable adjustment; unjustifiable hardship – parents, students and educators need a common understanding of what is reasonable for students in the context of an education setting with responsibilities to other students and staff
- participation – to what extent should the Standards enable 'participation' on a continuum from attendance at an activity to achieving a students' full potential (discussed further in Section 3.6)
- consultation – what represents adequate consultation with students and their guardians
- on the same basis as...; best interests of the child – these leads to concerns about what level of equity the Standards aim to achieve.

As a result of language that offers flexibility, stakeholders report that it is frequently left to individual educators or principals to interpret what these terms in the Standards mean. The subjective nature of interpretation was not conducive in all cases of a positive relationship between parents, students, and the education providers.

What is reasonable to you might be different from what is reasonable to me...Does the Principal decide what is reasonable on the day you got to see them? (Peaks and advocates roundtable)

Educators are not experts in disabilities, yet are the arbiters in relation to the extent of the consultation necessary, if students with disabilities need any adjustments at all, and if they do need them, what those adjustments should be. They have an inherent position of conflict of interest. (Submission, Disability Discrimination Legal Service)

The subjectivity of the language used in the Standards makes it more difficult to test incidences of discrimination as the Standards can be interpreted in a number of ways.

3.4 Complaints mechanisms

The Standards currently follow a complaints-based system of accountability; that is, disability access and participation issues are only externally tested when a student, their parent or an educator complains about a process or behaviour they have experienced. There is no consistent requirement for providers to demonstrate compliance with the Standards outside of the legal framework of the DDA.

The absence of a "timely or effective" complaints resolution process means that complaints tend to follow one of two paths: either complaints are abandoned, or they are escalated (submission, Children with Disability Australia).

Several parents and advocates noted that the system for making complaints was complex and time-consuming. This can mean there is a tendency not to pursue complaints, or for complaints to only be pursued by those with the most commitment, time and other resources to dedicate to the complaint. This leads to stakeholders expressing concerns about how effective the Standards are in promoting equity for all students.

For educators who breach the Standards, but receive no complaints, there is no process for ensuring future compliance. Conciliation processes generally lead to agreements that are confidential, and do not establish precedent nor generate publicity in the way that a court case might:

...90 per cent of cases (are) settled by conciliation and no-one gets to hear about it. The vast majority of complaints never reach a court, never reach public scrutiny. That's a shame. Because if it did and you got some publicity you may get a better awareness in the general community about... what schools are required to do. (Peaks and advocates roundtable)

Some stakeholders highlighted that the complaints-based system entrenches a conflict orientated, adversarial approach to resolving issues. Students and parents naturally experience a high deal of emotional stress when dealing with complaints in the education system, likewise educators and leaders can perceive a complaint as an attack. Some parents reported feeling penalised by the education provider as a result of making a complaint against it; in isolated areas this is a particular issue:

When you've got a situation where there's only one school in their area and they don't want to rock the boat, it's a real problem. (Peaks and advocates roundtable)

Educators and policymakers were clear that they did not solely rely on complaints, but had other mechanisms for ensuring the Standards were applied, such as practice forums and network meetings. However, these are highly localised systems. Some stakeholders suggested positive reinforcement mechanisms, such as performance auditing and tying results to funding.

3.5 Standards for enrolment

3.5.1 Background

The intended effect of the enrolment standard is to give prospective students with disabilities the right to enrol in an educational institution on the same basis as prospective students without disabilities, including the right to 'reasonable adjustments' to the enrolment process.

Education providers are required to:

- take reasonable steps to ensure that the enrolment process is accessible, and free of discrimination
- consider students with disability in the same way as students without disability when deciding to offer a place, and without discriminating against them

- consult with the prospective students or their associates about the effect of the disability on their ability to seek enrolment; and any reasonable adjustments necessary.

3.5.2 Effectiveness of the standard

3.5.2.1 Common issues across settings

The key issue reported across all settings was the continued exclusion of people with disabilities from education.

The construction of the Standards as a legal document also meant that some stakeholders felt this rendered it less accessible and understandable by teachers and educators, creating challenges for implementation.

In the early childhood setting, stakeholders reported that fear of discrimination at enrolment led to parents sometimes not disclosing a child's disability when filing an application for a place in early years education, due to fear of not being granted a place. Where this occurred in a rural area, the local council was proactive in educating parents that it was in their interests to include additional needs information on the enrolment form, so that the Council could connect them with local early intervention services. In this instance, they were largely able to address parents' fears and promote disclosure as a means of securing appropriate support rather than leading to exclusion.

Parents and advocates reported they encounter barriers early in the enrolment process, with examples of independent and faith-based schools (incorrectly) advising parents that the Standards do not apply to their settings (peaks and advocates roundtable).

3.5.2.2 Early childhood

Successive policies at the state and Commonwealth levels have led to an increase in young children attending education and care. Some stakeholders highlighted that the exclusion of childcare from the Standards was at odds with policy in recent years which has increased recognition of the educative importance of early years services including childcare. Early intervention to identify disabilities is important so that support strategies can be put in place as early as possible to assist a child in their development. Access to education and care is an important step in this. Without support for enrolment into care, children with disabilities are potentially missing out on an important stage in their development trajectory.

Additionally, the increasing move towards the provision of education and care in a mixed setting means that many providers may be unaware of their existing obligations to the Standards:

Certainly in the early childhood space there are providers who maybe were day care providers who are moving into other areas...so they could be considered as early education providers but they're not necessarily aware. (Educators roundtable)

3.5.2.3 Schools

The language used in the Standards means it is ultimately often at the discretion of Principals to enrol a child, and on what conditions that child is enrolled.

There are reports of schools discouraging enrolments for a multitude of reasons. A particular tension uncovered is that between mainstream and specialist schools. Parents of children with disabilities

sometimes find that they are discouraged from enrolling in mainstream schools, and encouraged to pursue specialist options for a wide range of disabilities. This appears to be less problematic with speech, language and communication disabilities. It is also reported by some parents that they are forced to travel significant distances to access an 'appropriate' school, as schools closer to home are supposedly unequipped or unwilling to accommodate a student with a disability. This corresponds to the finding of the curriculum development standard, discussed in Section 3.7, that schools may find it easier to exclude students from an activity than moderating their practice to include that student.

Parents found that mainstream schools were often unwilling to enrol students where disabilities manifested in challenging behaviours. Parents reported hearing that teachers and other students need protecting from students with potential harmful behaviours that may compromise their safety. The Standards do emphasise that reasonable adjustments include what is also reasonable for staff and other students: "an adjustment is reasonable if it balances the interests of all parties affected". These issues are discussed further in Section 3.9 in relation to behaviour and harassment.

There is a perception among principals and teachers that kids with behaviour issues don't belong in mainstream schools and that is a contradiction to what the Act says but we keep getting these excuses coming about why schools can't handle them. (Peaks and advocates roundtable)

Parents offered trial basis, part-time or dual enrolments – meaning that the student would be educated part-time in a mainstream school and part-time in a specialist school – cite negative impacts on the well-being and social and emotional development of their child, including social and educational exclusion. However, others noted that these could be an effective way of 'easing' their child into mainstream education if handled well.

Access to accurate and up-to-date information prior to enrolment was also highlighted as an issue by some parents. For example, a parent reported enrolling their child in a school which advertised a program to enable their child to participate in mainstream classes, only to find their child streamed into a newly established supported unit (submission, parent of a child with disability).

3.5.2.4 Post-compulsory

A number of stakeholders discussed the exclusionary nature of 'inherent requirements' for university courses. These specify the requirements that a person must have in order to participate in the course, for example, have a certain language or mathematical ability, or be able to stand for long periods of time, which inherently discriminate against some people with disabilities. These are justified on the basis that a student accepted to the course would be unable to attain the relevant qualification at a requisite level because they would not meet these requirements. However, several stakeholders noted the variation between inherent requirements for the same courses at different universities:

So if someone is doing a science degree at one university and another person is doing it elsewhere, you could have completely different inherent requirements. That is in fact if they are even articulated. Because then you also have [some universities that] have almost made a business around inherent requirements. So for many of their courses

right through from accounting through to degrees, all of the allied health degrees, medicine, nursing, attached to these are inherent requirements. (Educators roundtable)

A number of stakeholders reflecting on the inherent requirements issue queried their application to educational programs where the requirement actually applied to the related vocation. In some cases, the specification of the inherent requirements themselves were unclear:

The inherent requirements of a job should be very different from the inherent requirements of education...For example, one university had an inherent requirement that you had to have visual acuity and couldn't be blind to be a social worker. In a job sense, you may not be able to be blind in a domestic violence situation but as a social worker at a university, you are quite well placed to be a blind social worker... There's no real guidance around it; at the moment it's ad hoc. (Educators roundtable)

However, the role of professional associations in setting requirements for tertiary qualifications is also a factor that complicates how inherent requirements are determined and applied:

it is the responsibility of universities to ensure that any prescribed inherent requirements are just that, and do not act as an unnecessary form of "gatekeeper" to a particular profession. However, the reality is that most professional courses conducted by universities are accredited by professional bodies, who in turn are charged with maintaining certain professional standards to meet both government and community expectations and, in the case of health professions, to ensure public health and safety. (Submission, University of Western Sydney)

An additional problem with inherent requirements and other entry criteria is that the information is often only contained within a course handbook which is only available via a university website, many of which are not themselves accessible. Education providers also noted that provision of advice to students depended on their awareness and disclosure of their disability

3.5.3 Key issues of implementation

3.5.3.1 Common issues across settings

Parents and students reported that there is a lack transparency in decision-making over the enrolment of students. There is no review of enrolment decisions by which students with disabilities and their parents can hold the provider accountable, no routine mechanism to test decisions based on unjustifiable hardship, and no monitoring or accountability mechanisms under the Standards.

3.5.3.2 Schools

Students in rural and remote areas face almost no choice in school options. If the local school does not put in place support services for disabled children, parents have little choice with no alternative in the local area. Rural families and some urban-based families reported they had explored accessing School of the Air as an adjunct to homeschooling, but found the pace and level of self-guided work didn't accommodate their child's learning needs.

The issue of being allocated an appropriate school suited to a specific disability can be difficult. An autistic child, whose parents found it hard to obtain information on the selection process, had to

apply a year ahead to a panel who selected three potential options for them, and made the final decision as to which one they was allocated. The child's parents were not entitled to select the nearest school with suitable support facilities, and were alarmed that the decision would only be received a month before the school start date. This allowed no time for a proper orientation to the school environment, other students and teachers (online story submission, parent of a child with autism).

Significant diversity in philosophy and commitment to working with students with disability has created unofficial 'specialist schools' with the enrolment of disproportionately large numbers of students with particular communications disabilities in schools which will accept them, according to Speech Pathology Australia. This outcome is not necessarily attributable to any conscious or deliberate attempt by schools to discriminate against students, but Speech Pathology Australia suggest that the result is an increased burden of adjustment on those schools with more students with disability enrolled.

3.6 Standards for participation

3.6.1 Background

The effect of the participation standard is to give students with disabilities the right to participate in the courses or programs; and to use services and facilities, provided by an educational institution, on the same basis as students without disabilities, including the right to reasonable adjustments, where necessary, to ensure they are able to participate in education and training, on the same as students without disabilities.

Education providers are required to:

- take reasonable steps to ensure participation
- consult with the student or their associate about the effect of the disability on their ability to participate
- make a reasonable adjustment if necessary
- repeat this process over time if necessary.

3.6.2 Effectiveness of the standard

3.6.2.1 Common issues across all settings

Across all settings, stakeholders noted that access had improved as a result of the Standards. Stakeholders reported there has been a large improvement in the access and participation of children with diagnosed development or acquired disabilities in the early years and primary school sectors. There are positive reports of children in early years specialist schools having their needs met, for example, a child with ASD receiving assistance with their language skills to increase their participation, and some of this support continuing into their mainstream primary setting.

Stakeholders reported that at a school level, the public sector is reportedly doing more than the private sector, and there is a wide understanding of what constituted a 'reasonable adjustments'.

With no baseline expectation about what schools should do to offer inclusive education, examples received during the review of what they are and are not doing varied widely. There is a perception that the Standards have helped schools to understand their obligations and improved students with disabilities' access to participation in school excursions, activities, and extra-curricular activities, and that this understanding has occurred because there are better reference points relating to their obligations available than at the 2010 review.

Many contributors were complimentary about the work that teachers did to support participation, while recognising that in some instances additional training and support could help these professionals work more effectively with children with disability:

The school is great, the special needs teachers & aids are extremely professional, committed to all the children, caring, approachable, nothing is a bother or hassle to them. They work with whatever resources they have, it would be nice if they had a bit more money for a few more resources for each of the children they have as each child has different needs and disabilities. (Online thread, parent of a child with disability)

On the plus side, the quality of staff in the government schools (both mainstream and special) have been AMAZING and they very willing to adapt and be educated on how to include and educate special needs kids. (Online thread, parent of a child with disability)

Stakeholders reported that universities have achieved greater access and participation for students with disabilities than schools, although there are still problems with equitable participation in this sector. There were accounts that the education providers in TAFE sector provide access support, but that the private sector RTOs are less successful at enabling participation than universities and TAFEs – a fact attributed in part to differences in how they were funding.

However, an ongoing issues remains around the nuances of language – is access the same as participation? Is participation sufficient or should it be enabling students to achieve at their full potential? Is access related to physical access or to accessing the curriculum? Debate continued among our stakeholders about the extent to which 'participation' as they understood it was feasible. Participation includes a level of action by the education provider, but also the need to provide an atmosphere where students feel included and welcomed to participate.

Yes, to say that you can go to sport but you can't actually participate because we can't get the wheelchair around to the other part of the oval so you just wait there, that's actually not understanding, that's actually not correct. (Policymakers roundtable)

I had a bit of a question about the 'same capacity to participate', whether that is just to participate or reach full potential? There seems to be a gap there whether people are just being – how far that is supposed to go. Is it just to participate, being in the classroom, or is it to reach the full potential? The potential, does it extend to outside activities like sports at school, extracurricular as well? What does that mean? What does the term mean? There is confusion over that. What is the aim? (Policymakers roundtable)

Some stakeholders expressed frustration that the concept of participation was phrased in the negative, but did not emphasise the importance of *inclusive* participation.

If you are asking the question about whether the Standards are fit for purpose, it depends on what the Standards are supposed to do. In a technical and legal sense it's to give priority to the act but in a sense what the Standards are trying to do is drive inclusive education. Are they fit for that purpose? No, because they're not operating within an inclusive education framework. Even the language of the Standards is structured in such a way that it really does reinforce that segregated focus on education. (Peaks and advocates roundtable)

One stakeholder noted that this meant some of the wider benefits to inclusion were being missed, for example, a ramp for a student in a wheelchair could make it a bit easier for everyone to access the school; an inclusive school culture will benefit the wider school community.

3.6.2.2 Schools

Different perceptions were reported regarding schools' responses to the need for reasonable adjustments to meet the participation needs of students with disabilities in general, and students with specific disabilities.

Students with behavioural disabilities and those who displayed the behavioural effects of other disabilities such as autism – both of these categories in mild and severe ways – had problems being accommodated and accepted at school. Examples provided by stakeholders ranged from students with mild intellectual disabilities not 'fitting in' at school; the behavioural and emotional signs of disability such as autism or Asperger's syndrome being interpreted as a lack of focus or negative attitude; students with mild behavioural issues being segregated from mainstream classes with extreme behaviour cases for ease of teaching away from mainstream classes or funding acquisition reasons; to students with extreme behavioural and mental health issues being sent to Positive Learning Centres; through to total suspension or exclusion.

I had a call on Monday from a school counsellor that they expelled a child because his behaviours were in breach of the rules. He brought a knife into school. There were all sorts of reasons, as I later learnt, for him to do that. There was a failure to look at the whole situation and how expelling that child is just going to make things worse. It is not going to change anything in terms of the child's behaviour. (Peaks and advocates roundtable)

The relative 'invisibility' of students who by virtue of their disability spent a lot of time out of school was also noted; one submission observed that:

Students living and learning with chronic illness face three key barriers within the education system:

- 1. Invisibility - high levels of student absenteeism*
- 2. Identification - a lack of recognition that illness and health conditions are disabilities under the DDA, and*
- 3. Knowledge - a lack of knowledge about the learning impacts of chronic illness.*

(Submission, Ronald McDonald House Charities)

Mainstream classrooms versus segregated classes, or isolating learning arrangements for some students with disability was flagged as a major issue. Some parents reported feeling pressured to place children in supported streams or special classes rather than being integrated inclusively in mainstream classes. There are issues of students with disabilities and substantial abilities in some subjects, or general high IQs, being placed favourably in mainstream classes as an alternative to supported classes, but support not being offered in these classes, and a good performance making their support needs questionable. Students can also be isolated in offices with a teacher's aide, no access to the teacher, or their peer group. Yet schools feel they have made a reasonable adjustment in that the student is at school, and the perceived risk of harm to others is being managed. Parents and advocates argue this does not reflect the spirit of the Act or the Standards, and an underpinning commitment to inclusion is needed to raise the standard of adherence to the Standards.

Putting students with disabilities in classes with a younger age group to enable them to keep up with classes where support is lacking is seen to send the wrong message (e.g. delayed maturation, low level abilities) to student peers. Sometimes students need the opportunity to extend their time at school, and an experience in remote areas was that some schools had to apply for this right, and others did not. There needs to be consistency of rules around helping students to reach their full potential in education. As well as full education, the link between participation, educational outcomes and employment prospects is widely recognised.

Participation in school life was also raised as an issue parents find difficult to negotiate. Positive examples were provided, where a timely discussion as held with parents of a child known to be a 'runner' and unsafe close to water if not individually supervised. The importance of the child participating in a much-anticipated annual excursion was recognised by the school, and through a series of conversations with the parents a plan was developed that would see the child attend, participate in most of the activity and be engaged in parallel activity when other children were near water. This contrasts with the negative experience of other parents:

I have a child with bowel incontinence and he needs to be toileted two times at school...so when it comes to excursions he either needs to be excluded or as a parent I need to go with him! (Online submission, parent of child with ASD)

3.6.2.3 Post-compulsory

Several stakeholders reported that universities have improved their inclusive participation practices. Some educational institutions employ champions of students with a disability who have initiated professional development programs for staff.

I think it has increased incredibly to the point where I think it's almost being governed by the people themselves that require assistance and then we just work with them to provide it...[The university] have thrown their resources behind it to be able to deliver it both financially and staffing. (Educators roundtable)

However, others argued that these have proven to be short-term solutions. Key systemic problems identified in the university sector include:

- the scale of universities means that only a selected few people in university administration and support roles thoroughly understood their obligation for compliance to the Standards
- a low awareness of barriers faced by students in accessing curriculum that does not build accessibility into its early design e.g. courses that can *only* be undertaken on a full time basis; on-line courses with content not loaded in accessible formats
- a lack of alternative entry routes and pathways to university
- inaccessible buildings and limited physical access.

With our extensive experience we are only able to indicate one department in one university that has put access for students with a disability at the foundation of their learning programs. (Submission, Global Access Project Team)

Across the tertiary sector, students with specific disabilities encounter specific problems. For example, one stakeholder highlighted a lack of suitable courses in tertiary education for students with learning difficulties which include numeracy and literacy skills; another reported that TAFE courses were not ‘deaf friendly’.

3.6.3 Key issues of implementation

3.6.3.1 Common issues across settings

There was a common view that the participation standard itself was not the main problem, but that the Standards were rarely referenced or utilised to support students’ participation. It is often not an issue of *unwillingness* to change, but the lack of knowledge, skills and resources to support students with multiple complex disabilities. Many stakeholders declared that educators need better training, during qualifying courses and within the scope of their jobs, on how to facilitate inclusive education. This is a crucial issue especially around students with behavioural challenges and difficulties, in educators knowing how to manage tension points and mitigate risks – including work health and safety risks to educators.

In the school and early years settings in particular, teachers struggle to manage such students, particularly when they require disproportionate attention in generally large class sizes, or pose difficulties to staff and other student’s safety.

Continuity for students can be difficult if they have changed schools frequently, or in secondary school, where there is the expectation that they will move from subject to subject throughout the day. This requires the skills and buy-in of a number of educators, increasing the odds that one link in the chain will not provide adequate support for students.

3.6.3.2 Schools

In the school setting, several stakeholders noted that the Standards were not being addressed in Individual Education Plans (IEPs). While IEPs are not specifically a requirement of the Standards, they do represent a common approach in many contexts, and other parents noted frustrations with IEPs, including being inadequately consulted while they were being drawn up, and noting that the IEP was rarely reviewed even if the student’s condition changed.

3.7 Standards for curriculum development, accreditation and delivery

3.7.1 Background

The effect of the curriculum standard is to give students with disabilities the access to curriculum delivery and assessment that enables their participation on a course on the same basis as any other student, while recognising that reasonable adjustments may need to be made to course content or the way it is delivered in order for students to receive the same educational experience.

Education providers are required to:

- consult with students as to how to meet their needs
- make reasonable adjustments to learning experiences (including curriculum and adjustment).

3.7.2 Effectiveness of the standard

3.7.2.1 Common issues across settings

Most common across sectors was the challenges faced by educators and students in making curriculum accessible. For educators this was mostly put down to a lack of skill in differentiating curriculum for a range of learners; for parents it reflected a perception that providers find ways to exclude students rather than implement reasonable adjustments to the curriculum.

I've witnessed teachers exclude children from learning environments because it's just "too hard" for them to incorporate their needs into mainstream learning environments.
(Submission, educator)

This was far from a universal experience; many submissions highlighted instances of educators demonstrating effective compliance with the Standards; for example:

I had one teacher who said to me "It is my obligation to give it to you in the format that you want it in". This was great. I offered to do it myself because that was what I was used to, but he insisted and he was really good. (Submission, person with disability)

He was successfully mainstreamed in primary school - the school was brilliant. They adjusted his curriculum, allowed his speech pathologist to visit weekly, and my son was included in everything from school concerts, to the whole school musicals. The school thought outside the square! (Online discussion thread, parent of a child with disability)

Some stakeholders highlighted the lack of a flexible and tailored curriculum all-round. This was particularly highlighted within the many submissions received in relation to dyslexia and, for example, the issue of phonics-based language programs.³

³ It should be noted that the review received a very high number of submissions from parents of children with dyslexia.

It's a pretty tough and dry curriculum. It doesn't cater for anyone who learns in visual or other ways... And also [it's] not age-appropriate or ability-tailored. (Peaks and advocates roundtable)

If a student is blind, a teacher is not going to show a video and expect them to write a review... So why aren't the same accommodations given to a dyslexic student? (Online discussion thread, parent of child with dyslexia)

The importance of making the full curriculum accessible was highlighted in one submission, which highlighted the cumulative impact of missing out:

Even in a best case scenario, if teacher were able to successfully adapt 80% of learning resources across the curriculum, then over the course of seven years and primary school, blind and vision impaired students would miss out on a great deal of learning before they transition to secondary school. (Submission, Insight Education Centre for the Blind and Vision Impaired)

Comments from the early childhood and primary school settings were more favourable. Given the current pedagogical approaches in early childhood, it is already much easier to cater to the curriculum needs of young children. For example, early years settings tend to take a play-based approach which enables children to learn and choose activities at their own pace. The absence of assessment at this age also enables greater flexibility.

Assessment is a key challenge for the education sector in relation to students with disabilities, and this was reflected in comments across the board. It is important to balance access to assessment without undermining the integrity of the course that the student is undertaking.

A common misconception I encounter in schools is that a reasonable adjustment doesn't apply for VCE (Victorian Certificate of Education) or NAPLAN and that is often offered with a justification of "well, we best not start down the road of adjusting during assessment because we are setting the kids up to fail during high stakes assessing. (Peaks and advocates roundtable)

Some stakeholders reported scepticism from educators or the parents of other students about the fairness of adjustments – the implication being that they were leading to undue advantage. As a result, students and parents expressed their frustration at the process for having to prove their impairment justified support in assessments.

Many stakeholders reported confusion over the extent to which adjustments could be used in assessments. Different providers offered conflicting information; others noted that adjustments that a student had got used to using in the classroom were then not allowed in assessments.

Some provisions were made in major exams but not available in class tests so there was an inconsistency which also added to our son's stress as he always wanted to do the right thing but was frustrated with the fact that he was unable to do what was asked. (Online discussion thread, parent of child with intellectual disability)

There are also reports of inconsistencies between education providers. At one of the roundtables, a representative from one university noted that students requiring assistance in an examination were only eligible to use a scribe, not an assistive computer program; a representative from another university said that students at their university could sit examinations with the assistive computer program, but not a scribe. For others, their student aide was unable to accompany them to final exams to provide support. This suggests there is a need for greater clarity about the kinds of supports which are justifiable during classroom and during assessment, and if there is any distinction.

Additionally, some stakeholders noted that assessment variations among students from different socio-economic and CALD backgrounds leads to an unequal application of the Standards. The difficulty in conducting assessments (of disability, not academic tests) is discussed in Section 3.8, but has implications to clarify obligations for providers in ensuring equitable access to assessment of disability.

3.7.2.2 Early childhood

Educators and policymakers emphasised the role of the Standards in creating the awareness of the need for a differentiated curriculum, even at the early years stage. In general, while a smaller number of submissions were received in relation to early childhood, the flexible, play-based and non-assessed nature of the early years learning environment was thought to lend itself more readily to application of the Standards.

3.7.2.3 Schools

The key frustration highlighted was perceived inconsistency in application of the Standards between children. In particular, intellectual or learning disabilities and mental health conditions were highlighted as areas where there were gaps in the accessibility of the curriculum:

Whilst ACARA has made excellent progress in the area of curriculum, within the implementation arena, it is structured for students with no disabilities. Indications are that it is still particularly difficult for students with intellectual disabilities to access the curriculum. (Submission, Australian Council of State School Organisations)

3.7.2.4 Post-compulsory

The key issue highlighted, particularly among policymakers and educators, for the Standards' application in post-compulsory education was the lack of clarity around Standards for participation in practicum and work experience, which are often a significant component of both VET and university courses.

This highlights the issue of the integrity of assessment for courses that serve a primary function as preparation for professional work. For example, a student taking a nursing course is then eligible for professional registration as a nurse. To what extent, therefore, is it important that reasonable adjustments for participation in university practicum uphold the professional Standards required for a student to do real nursing work. Policymakers highlighted the disconnect between the Standards, which are a function of the Department of Education and Training, and professional Standards, which are developed by individual professional organisations and in workplaces. Universities and TAFE providers are currently not sure of the extent to which their obligations under the Standards extends to activities off-campus which are a required part of courses. Roundtable participants noted that:

[o]ften there can be students who can manage the academic requirements but when they hit the practicums that's when the issues arise and there are difficulties. I feel that the Standards just really don't address those issues in enough detail to provide direction. (Educators roundtable)

The complexities of negotiating implementation of the Standards with third parties in this context were also highlighted by educators:

Educator A: ...so much education now happens outside university and in the workplace and study tours overseas and there is no onus on those external partners to make reasonable adjustments under the legislation so it is a negotiation process and it's a very fraught space in the disability sector.

Educator B: Faculties don't want to push on those organisations that they have relationships with because if they spoil that relationship they can't put people in. (Educators roundtable)

While the Standards cover education activities outside the classroom,⁴ these comments reflect the challenges education providers face in arranging work placements.

3.7.3 Key issues of implementation

3.7.3.1 Common issues across settings

Numerous stakeholders report the ongoing challenge of implementing the Standards among educators who do not have the adequate skills for implementing a differentiated curriculum.

Other parents noted that implementing a differentiated curriculum can take considerable time for educators; time they lack in the current teaching environment. As a result, several parents are taking a role in moderating the curriculum in their own time to ensure their children are able to participate. This also includes a number of parents who have taken the decision to homeschool their children as a result of ongoing frustration with the system's ability to adapt for their children's disability.

Stakeholders from the higher education sector observed that academics are not necessarily teachers by first preference, and receive very little training in how to teach, including how to teach a differentiated curriculum. Some noted this led to a tendency to be more concerned about academic integrity than making reasonable adjustments.

3.8 Standards for student support services

3.8.1 Background

The effect of the student support services standard is to give students with disabilities the access to support services which enable them to participate fully in their education.

Education providers are required to:

⁴ See section 6.3(e)

- take reasonable steps to ensure that students are able to access support services across the education institution
- provide necessary specialised support services for students to participate in activities, either directly in the organisation, or by outsourcing to another person or agency
- make reasonable adjustments to learning experiences (including curriculum and adjustment).

3.8.2 Effectiveness of the standard

There were many positive examples provided of the beneficial effect that provision of appropriate supports has had for people with disability.

Our youngest is currently in year 11 and we have been able to get her to use the speech to text software Dragon speak for the class work and assessment tasks. She has been able to get her thoughts (which are very good) to paper. We have seen a dramatic improvement in her results and the teachers are able to read her work. This has in turn led to higher levels of self-esteem and confidence. She is now wanting to study and wanting to submit work she says she is like the other kids now. (Online discussion thread, parent)

In several examples, positive results were attributable to additional effort and resources committed by schools or families.

My daughter, the school, the teachers, the other kids, all thrived after ... changes were made and she came to love school. The school staff were amazing and the benefits to whole school community in terms of knowledge and inclusion were immense. The number of children with special needs enrolled in the school began to lift as they demonstrated their knowledge on how to educate and include these children. The driver of all of this change - extra funding. There was no way my daughter could have continued to attend the local school without the extra ... funding provided by me. (Online discussion thread, parent)

3.8.2.1 Common issues across settings

Many stakeholders reported the absence of clear advice and contextualisation of information relating to supports in the Standards – which supports were covered, and how were they to be implemented in different sectors and settings.

Further clarification is required relating to the obligations entailed by the standard for student support services as this standard often involves a considerable degree of judgement. The area of student support services is one in which there is often a divergence between users and providers in the interpretation of obligations. (Submission, Independent Schools Council of Australia)

The extent to which the standard applies to external materials and support was raised consistently during the review. Education providers rely on third parties to produce materials in multiple formats, which they do not always do. Some stakeholders highlighted that in the some US states, there was a requirement for education materials to meet certain standards of accessibility to ensure that

students were able to utilise supporting material. This is not the case in Australia, and providers do not seem to be using their purchasing power to change the market for accessible materials. Similarly, there was confusion over certification requirements for Auslan interpreters and other personnel supports. Additionally, Vision Australia raised concerns about the adequacy of knowledge in the sector with regards to what constitutes accessible materials.

Often they will be given documentation that they are told is in accessible format and it is not... That is a big problem and particularly in terms of technology... it would be great to have a very clear definition of what 'accessible' is. (Submission, Vision Australia)

This is increasingly an issue in schools and post-compulsory providers investing in online platforms for the delivery of education. Universities and TAFEs often purchase these as a 'package', which does not include full accessible access, and then is very difficult and costly to retrofit for students who require adjustments. It is not clear the extent to which providers are failing to meet their obligation to students in the provision of accessible materials and platforms.

Several stakeholders also highlighted the variation in implementation of the Standards between organisations. It is harder to provide support services in rural and remote, and other smaller schools, where there are fewer options. In these remote areas it was often expected that family members would serve as student aides. The Victorian Catholic Schools Parent Body suggested there was a need to provide clear information to parents that these were the kinds of circumstances which may impact upon the ability of a school to meet the support needs of the child.

Stakeholders also highlighted the need for culturally appropriate advice and guidance for the Standards for Aboriginal and Torres Strait Islander students, as well as CALD students:

It's more about access to information as opposed to changing the content. It's about what formats are available. (Policymakers roundtable)

Structures taken for granted in metropolitan areas are not always available in rural and remote areas and do not always consider the needs of culturally diverse students. (Submission, Australian Tertiary Education Network on Disability)

3.8.3 Key issues of implementation

3.8.3.1 Common issues across settings

Significant variability was reported in the sorts of supports that were available. While much of this variation can be explained by a lack of awareness and clarity in the Standards (discussed above), others noted the impact of funding on support disparities. Some stakeholders indicated that private schools were able to access greater supports, although it was not clear whether this was due to fees charged to parents. Many submissions commented on the reliance in many cases on individual goodwill or commitment of particular schools or individuals to go 'above and beyond':

Our child has thrived at the school but his educational needs are largely unmet. What our child does receive, at present, is largely made up of goodwill. His teachers and a [Student Support Officer] who has continued with him over 5 years, have worked many extra hours attempting to bridge gaps - technology, information, complex loading of

software systems is the weekend work of us as family and charitable teachers, We are currently beholden to goodwill and fearful of the pressures this places on our child's teachers, [Student Support Officer] and the school. System wide supports are needed not Goodwill - as was quoted in the Shut Out Report - "Goodwill is no substitute for freedom". (Online discussion thread, parent of a child with disability)

Other reported that recent cuts to TAFE funding were having an impact on the services available to support students. Another issue is that resources are not always available or directed in the 'right' places. For example, one stakeholder reported that an increase in the number of students with mental health issues has seen a shift away from access provisions to funding being directed into health and counselling services.

There was a concern that support services were very strongly tied to specific funding received by providers, despite their obligation to provide reasonable adjustments to all students regardless of funding status. Some commentators noted that the absence of a mention of funding in the Standards was a strength, as it implies that funding cannot be used as an excuse for failing students. Others felt there might be benefit in going further and explicitly de-linking the standards from frameworks that impose thresholds for funded support and

...emphasising that the Disability Standards covers a range of impairments and are far broader than funded disabilities. It would be highly beneficial for this aspect to be explained in plain language as it is often a contentious point for schools in making adjustments and school communities accepting them. (Submission, Victorian Catholic Schools Parent Body)

In the early educational context, children with a variety of disabilities require early diagnosis, intervention and support so that they are able to participate and have an equal opportunity to achieve learning outcomes. Stakeholders, parents in particular, reported that, diagnosis of, for example, dyslexia can take up to two years to complete, due to a cumbersome assessment process. During this time, the child misses out on having appropriate educational support in place in order to have the opportunity to meet learning outcomes, and develop essential skills.

An additional problem was reported in the assessment processes for CALD children. Educators noted the difficulty in identifying language and developmental delays when English is not the first language. This often means that Anglo-Saxon, English-speaking children are able to access early intervention supports more quickly than CALD children. Support for translation in the early years could assist with timely identification of children with intellectual disabilities.

Parents at all schooling levels highlighted the need for numerous assessments in order to 'prove' that their child had disability which required reasonable adjustment. Parents reported funding high numbers of these assessments, such as tests for dyslexia and psychological consultations, which left them considerably out of pocket. These assessments also take a long time. As a result, it appears that children from wealthier backgrounds and those with a committed parent or guardian advocate were more likely to be able to secure adjustments. Similarly, several parents and peak groups noted that, despite the Standards, they had to work as advocates for students to ensure reasonable adjustments were made in the classroom.

3.9 Standards for harassment and victimisation

3.9.1 Background

The effect of the harassment and victimisation standard is to give students with disabilities the ability to access education free from harassment and victimisation. The exception of unreasonable hardship does not apply to this standard.

Education providers are required to:

- not harass or victimise their students
- take action if harassment occurs
- develop adequate complaint processes to deal with harassment and victimisation.

3.9.2 Effectiveness of the standard

3.9.2.1 Common issues across settings

A key issue identified in relation to the harassment and victimisation standard was the manner in which the standard was phrased to discourage *negative* behaviour rather than encourage *positive* inclusion. The number of examples of harassment given was relatively low (though still significant enough to be a concern). However, there were many examples of where disability had prevented a student from being positively included in activities. Often this was associated with 'bad behaviour' which occurred as a result of their disability.

...the little girl doesn't get to be part of the Anzac Day thing. Because part of her disability means she will often be smiling – it's not necessarily an emotional response – "We don't think the school community will understand that; that would seem inappropriate". It's little things like that, that are in many ways shaming. (Policymakers roundtable)

One teacher...even knowing of his problems, made him do something on his own in front of the class because he has stopped looking at the whiteboard. (Online submission, parent of child with ADHD)

The child I have now refuses to trust that she is smart because every day she is told otherwise. Not explicitly; the teachers are tremendous and have been very helpful and accommodating within the confines of a class environment. But she is told by the looks of other kids who think she is 'dumb' because she can't master her times tables or it takes her twice as long to read the same sentence. (Online submission, parent of child with dyslexia)

Stakeholders reported that the Standards did little to address a culture of low expectations for students with disabilities. The acknowledgement that some students do require reasonable adjustments can contribute to a culture of 'lowest common denominator' – the curriculum is not varied from student to student and subject to subject for each student with a disability. For example, one parent highlighted the example of her child with dyslexia who excelled at maths – she believed

that teachers did not adequately recognise the math skills of her daughter because she was known to be a student that received support for her dyslexia in other subjects.

A systemic culture of low expectations is deeply embedded in the present education system and is significantly restricting the potential and educational outcomes of students with disability. (Submission, Children with Disability Australia)

When (teachers) find a child with disability they don't understand it and don't have time or leadership of anything to even begin to struggle with [how to respond]. So there's lower expectations (sic). (Peaks and advocates roundtable)

Additionally, there were a number of stories relating to bullying by other students, or other students' parents. Stakeholders highlighted the inclusion of the issue of peer bullying in the Standards to ensure that education providers are creating a safe environment for all their students, not just one where they are free from victimisation by the system.

3.9.3 Key issues of implementation

3.9.3.1 Common issues across settings

Stakeholders noted that changing the culture around appropriate behaviour towards and expectations of people with disabilities can take time, and the Standards have been an important first step in raising awareness. Additional education and support is needed for educators and students to understand their attitudes and responsibilities in relation to students with disabilities.

4 Discussion

This section explores major themes emerging from consultation and the implications for future improvements to the Standards. This section provides the context for the recommendations presented within the front section of the report.

4.1 Awareness, understanding and use

Stakeholders were generally of the view that while there had been positive developments in the community relating to awareness of people with disability, these changes were not attributable to the Standards *per se*, but were the result of a broader, long term shift toward a more inclusive society. However, it is probable that for those within the education community (both students and educators), the Standards have greater visibility and provide an authorising framework for promoting inclusiveness.

4.1.1 Use by students with disability and their families

It is clear that the Standards have been used to effect by many students with disability to hold education providers to account and as a tool to support their engagement in education. Overall, however, the level of general awareness around the existence of the Standards does not appear to be high, and a consistent concern from people with disability and their families and advocates is that the complaints-driven rights-enforcement model creates significant barriers to those seeking to pursue their rights.

The Standards themselves do not directly address the needs of specific socially disadvantaged groups; however a consistent observation made by stakeholders from all settings is that the complaints-based compliance framework further disadvantages those who are less able to initiate and pursue a complaint. These include Aboriginal and Torres Strait Islanders, people from new communities, and those from low socio-economic areas. Children and young people with disability rely on their families to advocate for them and pursue complaints if necessary; the effectiveness of the Standards in these cases is mediated by the knowledge and capacity of the advocate.

People living in rural and remote areas also have limited choice over which education institution they engage with. This can alter the relative power dynamic for people with disability, as maintenance of positive relationships with near-monopoly providers assume greater importance.

4.1.2 Use by education and training providers

A consistent observation by educators was that the Standards provided a useful point of reference, are relatively clear and relevant to the work of education institutions and educators. Educators are generally aware of the Standards, although less so in the early years and post-compulsory settings than at school level.

While the review found a fairly high level of awareness, review participants were less confident that educators and education administrators understood the detail of the Standards or were well equipped to implement them. In particular, there are questions about the extent of awareness around the scope of conditions that fell under the definition of disability (for example, dyslexia and children with chronic illnesses).

While evaluative data was not available to the review, recent efforts to bolster professional training (e.g. through the University of Canberra's online modules) and the inclusion of mandatory courses within some pre-service training were considered to be highly useful. The availability of tools and resources (such as self-audit tools) that support consolidation of learning may further support capacity building in the education sector.

4.2 Aspiration within the Standards

A common theme within submissions and contributions to the review is the reported prevalence of a culture of low expectations within the education system (and society more generally) that hampers efforts by people with disability to achieve their true potential. Low expectations can play out in subtle ways; for example, a gifted student who has a disability, for example, may not receive the same supports as another student with the same disability. This can be potentially because their areas of strength appear to partly compensate for their disability or because their *overall* performance looks 'better' than the non-gifted student with a similar disability. In either case, the gifted student who receives less support is comparatively less able to achieve their individual potential than the student who does, despite experiencing the similar specific functional impacts from their disability.

While the Standards provide a baseline framework for enrolment, participation and non-discrimination, they do not articulate an aspiration for people with disability to achieve their education potential. The Standards may have a greater role to play in lifting expectations.

4.3 Reasonable adjustments

Most stakeholders acknowledged that a degree of flexibility was necessary for the implementation of the Standards; however there were clear differences between stakeholder groups in terms of what constituted a 'reasonable' adjustment and what would impose 'unjustifiable hardship' on an education provider. There were also differing views on the extent to which definitions should be limiting or flexible. Stakeholders who represented the perspectives of people with disability or their families were more likely to consider the exercise of discretion within decision making processes about reasonableness generally favoured the provider rather than the student (both in terms of where the decision-making power resides and in terms of the substantive outcome). Education providers tended to couch these decisions in terms of the wider impacts on the community of an individual adjustment (for example, the financial impact, classroom disruption, duty of care to other children and teaching staff).

Both stakeholder groups acknowledged that the process could frequently lead to unsatisfactory arrangements, and in many examples, to confrontation or conflict where expectations or understanding were misaligned. Contributors to this dynamic include differences in the nature and quality of (and priority given to) information about:

- micro-level factors about a student's needs and what adjustments or responses are effective
- macro-level factors about resources and the wider impacts of taking a particular course of action.

While effective conversations can result in knowledge sharing and negotiation of a shared understanding of 'reasonable' adjustment, these conversations require a high level of skill on the part of providers and advocacy skills on the part of the student with disability or their associate to achieve the best outcome. While there is a range of information available to students with disability and their associates about the Standards, these are broadly factual in nature and do not currently provide easily digestible examples of a negotiated decision-making process through which reasonable adjustments are determined.

4.4 Balancing flexibility and specificity

The clear majority of stakeholders (including people with disability, educators and policy makers) were supportive of the Standards as a fundamental part of efforts to improve access to and experience of the education system for people with disability. The role of the Standards in establishing a framework of rights and obligations are recognised as essential, and in general the content and scope is considered to be broadly appropriate to their purpose. This said, there were some specific improvements proposed.

It is worth noting that a number of submissions dissented from the general view that the Standards were appropriately constructed in terms of level of specificity, referencing the *Individuals with Disabilities in Education Act* (IDEA) legislation in the United States as a preferable model. Proponents of the IDEA approach point to its greater level of depth and detail in setting out the obligations of education institutions, and reducing the interpretive leeway given to education providers and courts under the Australian model.

In particular, two areas of the Standards have drawn criticism for being insufficiently precise; what constitutes appropriate "consultation" under the Standards, and what is required of an ILP (ILPs are not mentioned within the standards but are a common product of jurisdictional policy intended to implement the Standards). These submissions were consistent with a pattern among contributions from people with disability, their families and others identifying that consultation is patchy in some contexts and pointing to variability in the quality and content of ILPs. While flexibility afforded under the Standards is generally appropriate given the diversity of implementation contexts, adjustments in respect of these elements may support greater consistency in their application.

4.5 Transparency and accountability

The introduction of the NCCD was universally acknowledged to be a positive step and a significant gain in terms of providing an understanding of the extent and nature of needs and systemic responses. The NCCD is a significant advance in terms of understanding the extent and nature of adjustments made. It is also serving to raise the profile of the Standards within school settings and provides a base of data to improve accountability and transparency of relative system performance within and between jurisdictions, geographies and sectors (government and non-government).

The NCCD will not capture data about students who are not identified as having a disability, and so will not provide insight into students who may 'slip through the cracks' through non-identification of their functional impairment. People who fall into these latter categories may appear in complaints

data, however at present there is no systematic collection, aggregation and reporting of complaints data.

At the systemic level, the absence of a proactive monitoring and accreditation system is seen to be a weakness in the present system, and one which placed the negative onus on people with disability or their associates to show non-compliance, rather than on the education system to demonstrate compliance. However, transitioning to a proactive compliance framework may increase the administrative costs associated with providing accessible education system and may give rise to reduced available resources within educational settings.

4.6 Transition

A gap in the present formulation of the Standards was consistently identified by stakeholders to be the transition periods, such as transition *into* the education system, *between* education institutions, and *out of* the education system to the workforce. While in many cases positive experiences of transition were reported, there are gaps in planning and supporting transition, and in particular, the transfer of information. In particular, providers from each 'stage' of the education continuum expressed some degree of frustration at the difficulties associated with securing timely information about past assessments and successful adjustments implemented in earlier contexts; in many circumstances it has a direct impact on the ability of the destination provider to put in place the right adjustments or supports.

This is a gap evident when the transition is between two education settings, despite the providers in both the origin and the destination being subject to the Standards. While some stakeholders supported an explicit focus on transition within the Standards themselves, there also appears to be scope to improve transition planning and information transfer which would be consistent with and support compliance with existing Standards.

4.7 Access and participation

This section responds to the Terms of Reference directing the review to consider whether the Standards have assisted people with disability to access and participate in education and training opportunities on the same basis as those without disability. Consultation addressed participation, inclusion and educational support provided to students of all backgrounds, including students in regional, rural and remote areas, students of culturally and linguistically diverse backgrounds, and Indigenous students.

The review has found that there is strong evidence that the number and proportion of individuals identified as having a disability who are enrolled in education has increased significantly in the past ten years. This finding is based on generally consistent reports from all education sectors that institutional records show marked increases in the proportion of students with identified disabilities. It is also supported by analysis of enrolment patterns.

It is not clear to what extent the increase in enrolment reflects one or all of:

- improved institutional practices around identifying prospective or current students' disabilities

- increased self-identification by students with disability, or
- a real increase in the number of students with disability enrolling.

However, the likelihood is that increases are a factor of all three elements, although to different degrees in different settings and between individual institutions. The drivers of these elements also vary, and the Standards themselves are one of a significant number of factors.

4.7.1 Social inclusion and inclusive education

National enrolment or course commencement data are also imperfect indicators of access and participation, as these do not provide insights into the experience and quality of participation, nor the extent of access to the curriculum. Stakeholders contributing to this review held different perspectives on the extent to which access and participation had been improved over the life of the Standards.

While concerns about physical access to education facilities did not feature strongly in this review, barriers to accessing the curriculum remain that relate to teaching practice. Approaches which include teaching an effectively differentiated curriculum are widespread but not universal in schools, with some instances reported of students being provided with tasks to keep them meaningfully occupied rather than engaged in the curriculum. While this is acknowledged to potentially support social inclusion and participation, it may not be consistent with access to curriculum on the same basis as others.

A theme consistent to a diverse group of stakeholders was the place of the Standards in supporting broader objectives of social inclusion and fostering inclusive educational practices. While the Standards were acknowledged to present a "baseline" expectation rather than exemplifying best practice, the importance of embracing inclusion of people with disability as a philosophical underpinning of the Standards was a recurrent theme. A number of submissions noted that the educational setting was a microcosm of society and as such a positive affirmation of inclusion principles was appropriate; this was contrasted in some consultations with the negatively defined standards relating to harassment and victimisation.

4.7.2 Access and participation by socially disadvantaged groups

While the Standards are of universal application, people with disability are as diverse as the Australian population. People with disability may experience additional barriers to participating in education because they are Aboriginal and Torres Strait Islander, live in rural and remote areas, are from new communities or are from low socio-economic backgrounds. The cumulative effect of experiencing multiple forms of disadvantage for these groups is a greater barrier to accessing education and training reflected in relatively lower rates of participation.

There are many institutions delivering programs and initiatives that are focused on education for socially disadvantaged groups. While notionally the Standards apply equally to such programs, the extent to which these programs are equally available to people within those disadvantaged groups who also have a disability is not clear. There were isolated examples provided to the review team of education programs targeted at socially disadvantaged groups not being accessible, resulting in further marginalisation of people with disability in those groups.

4.7.3 Access and participation Issues specific to early childhood settings

In early childhood settings, where pre-school enrolment is not mandatory, reported increases in enrolment by children with disability are likely to reflect reforms coupled with significant investments from Australian Governments in early years education and care - for example the measures under the National Quality Framework. Participation by children with disabilities in preschool programs for children aged three to five has increased. Between 2010 and 2013 the number of young children with disabilities in early year's education decreased as a proportion of all students. However, this reflects an overall increase in enrolment of all children in early year's education. When looking at the participation of children with disabilities as a proportion of the number of children with disabilities, the participation rate has increased from 76 per cent in 2010 to 90 per cent in 2013 In 2010 ([Productivity Commission, 2011, 2015](#)).

The reforms in the early childhood sector are strengthening the sectors' focus on early year's education, and in this context the non-application of the Standards to childcare settings was consistently perceived to be a gap.

There were significantly fewer submissions received in relation to early childhood education than for other education sectors. This is likely to be in part due to the relatively shorter period of engagement in pre-school compared to compulsory schooling and later education, and the reported experience of many families that quality participation in the early years is made easier by the higher staff ratios, play-based pedagogical approaches and the generally more 'holistic' focus of providers in these settings. Additionally, some forms of 'invisible' disability (particularly learning disabilities or mental health) concerns may not be identified until children reach school.

A number of facets of the transition to primary school were commonly (although not universally) reported to be challenging for children with disability and their families. In particular, there remain instances of families experiencing reluctance on the part of their local school to accept their child on the basis of their disability. There are also reported gaps in continuity of support for children with disability due to the timing of funding eligibility processes leaving children 'unfunded' until well into the school year. An absence of trust in a school's enrolment processes can result in parents not disclosing their child's disability on enrolment paperwork. In such examples the adjustments were required without a period of notice being given for the school to prepare, and funding windows may have closed so that schools cannot access funding to support the required adjustments.

4.7.4 Access and participation Issues specific to school settings

In compulsory school settings, the increases in reported enrolments by students with disability are likely to be the result of better identification practices and programs such as the More Support for Students with Disabilities initiatives. Students with disabilities attend both mainstream and special school settings. In 2013, 5.3 per cent of students nationally were students with disability ([Productivity Commission, 2015](#)). This figure was significantly higher in government schools (6.2 per cent). This is an increase on the number of students with disabilities enrolled in 2009 (4.8 per cent nationally) ([Productivity Commission, 2011](#)).

4.7.4.1 Influence of funding thresholds

While the Standards provide a broad definition of disability, a consistent theme arising within consultations with both people with disability and their families, and education providers is the

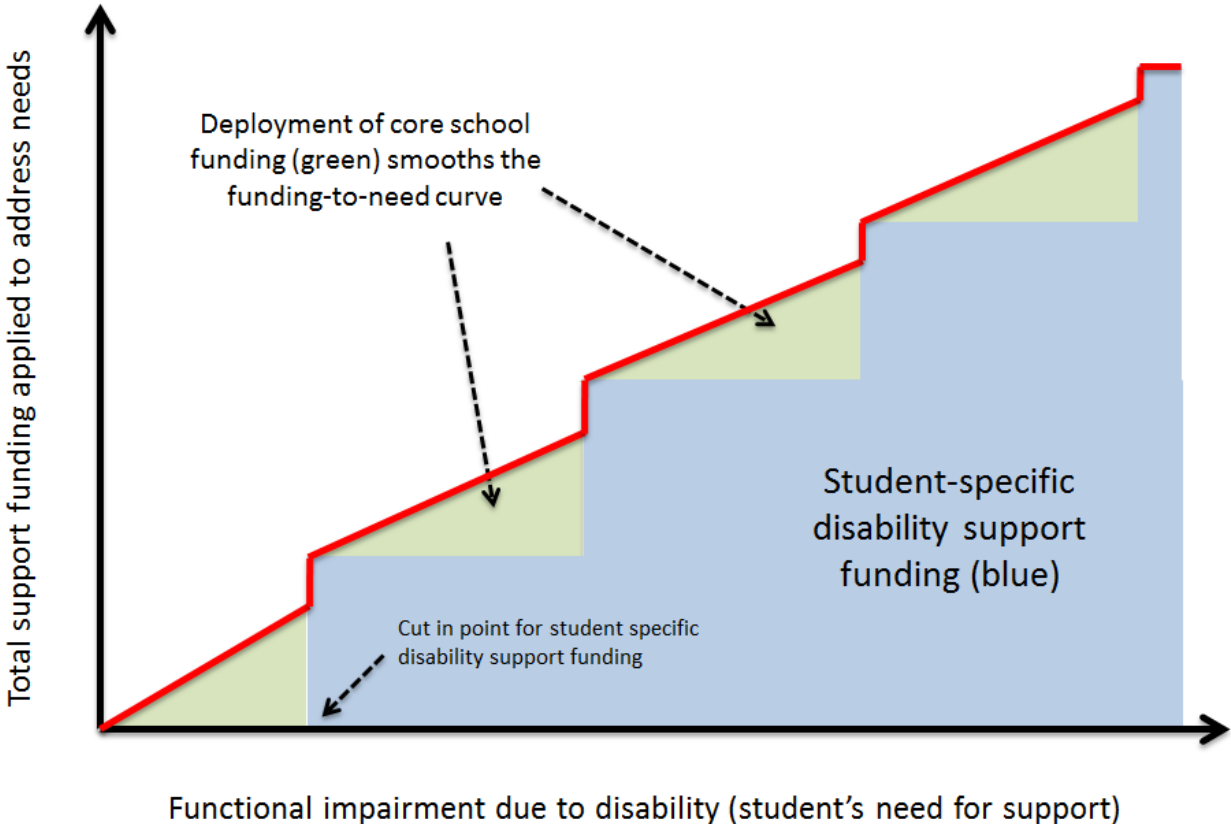
impact of the overlay of disability support funding. The adequacy or otherwise of funded support lies outside the scope of this review; however the dynamics of various cut-off points or thresholds has a significant influence on the practical effect of the Standards.

The Standards implicitly recognise that the needs resulting from the functional impact of disability occur on a continuum. However, adjustments or supports in response to need are strongly influenced by discrete thresholds applied within funded support programs according to state-based criteria. In some cases, this is reported to result in a 'step change' in the support available to those falling on either side of a particular threshold, notwithstanding that they may have very similar support needs.

An example cited independently by several review participants was a requirement for an IQ score of less than 71 to qualify for certain kinds of support. Children with an IQ of 71 receive no additional support, while those with a score of 69 do. A further example where the 'step change' has a significant effect is where children have multiple disabilities or medical illnesses, potentially each below threshold to qualify for support, but with a significant cumulative impact.

Notionally, schools can deploy their core funding or resources to 'smooth the curve', as shown in [Figure 2](#). The result is that total effective funding (as a proxy for support) is better aligned to the level of need.

FIGURE 2 – FUNCTIONAL IMPAIRMENT VS TOTAL SUPPORT FUNDING



Some contributors to the review (predominantly parents and advocates) considered that whether substantive supports were available depended largely on whether an individual met threshold

requirements for specific support funding. These stakeholders considered that some schools did not embrace their responsibilities to provide support to all students with disability irrespective of student-specific funding being available, and to utilise core funding to support students with disability. Where present, this attitude accentuated the 'step change' effect of a student falling just to one side or another of the student-specific funding threshold.

4.7.4.2 Assessments

The consistency of adjustments made available to students in class and during assessment processes were also a cause of concern for many stakeholders, particularly those representing the perspectives of people with disability. This was particularly the case in relation to year 11 and 12 assessments, where decisions about adjustments are generally made by a body external to the school, and were reportedly not always consistent with adjustments made in the classroom. Uncertainty about what adjustments would be available to students taking their year 11 and 12 assessments was a cause of significant anxiety to students and their families. Inconsistent approaches to adjustments for NAPLAN tests were also reported across jurisdictions.

4.7.5 Access and participation Issues specific to post-compulsory education

In VET settings, there has also been consistent growth in the total number and proportion of students with a disability. While the trend pre-dates the introduction of the Standards, it shows an average annual enrolment growth of 3.5 per cent since 2003, and an increase in the proportion of all VET students who have a disability from 5.4 per cent to 7.4 per cent over the same period ([National Centre for Vocational Education Research, 2015](#)).

The proportion of apprentices and trainees with a disability also rose slightly from 1.4 per cent to 1.7 per cent from 2002 to 2012 ([National Centre for Vocational Education Research, 2015](#)).

In the higher education sector, students with disability are also enrolling at higher rates, with commencements by students with disability rising from 2.6 per cent in 2001 to 4.6 per cent in 2012. The proportion of all enrolled students with a disability also increased from 3.1 per cent to 5.0 per cent over the same period ([National Centre for Student Equity in Higher Education, 2014](#)).

While education providers generally spoke positively about increasing enrolments this was frequently associated with concern that support for participation post-enrolment was variable and in many cases constrained by available resources. These concerns were most prevalent among stakeholders in the VET and private RTO sectors, who pointed to differences in the way that RTOs, Adult and Community Education (ACE) providers, VET providers and Universities were funded to support students with disability.

4.7.5.1 Associates of adult students

A specific concern was raised about the repeated reference to consultation with students 'or their associates' within the Standards. In the post-compulsory settings, students are predominantly adults. It was noted that the reference to consultation with associates arguably conflicted with privacy legislation requiring that the student first give consent; this had led to minor conflicts between associates and education providers over the interpretation of the Standards which might be readily avoided with a minor change in wording or clarification.

4.7.5.2 Access to course content

Two specific issues arise in relation to how the Standards apply to third parties in the post compulsory education sector. First, there is uncertainty in relation the application of the Standards to employers or industry bodies who accept students for practicums and industry placements, and the intersection with workplace laws around non-discrimination. Specific uncertainty exists about who bears responsibility for making (and funding) reasonable adjustments in this context.

Second, adjustments to allow students to access course material published by third parties (for example, textbooks) in accessible formats often occur on a case-by-case basis. This means that students experience significant delays accessing material and are disadvantaged in comparison to their peers. Create Once/Publish Everywhere (COPE) formats are increasingly being deployed in the publishing world in response to demand for content on multiple devices; a benefit of using COPE is also greater ease of adaption to accessible forms.

4.7.5.3 Inherent requirements

Workplace law allows employers to legally discriminate against a person with a disability if the functional impact of the disability would prevent the person from fulfilling the inherent requirements of the job. Stakeholders in the post-compulsory education sector have indicated that tertiary institutions providing vocationally directed education and training (including professional degrees) are excluding people with disability from enrolling in a course that qualifies them for a profession where their disability means they will not be able to fulfil the inherent requirements of the job.

In general, there were mixed views about this practice. On one hand, proponents argue that enrolling people in courses that require very significant adjustments was 'setting them up to fail' in the employment marketplace. Conversely, others felt that education institutions should not become involved in pre-empting a student's choices or making assumptions about the purpose of participation in post-compulsory education (which may not be in order to pursue a specific profession). Other considerations include the value of participation, inclusion, and learning compared to qualification attainment; for some, qualification attainment is not the relevant benchmark.

4.8 Other matters

4.8.1 National Disability Insurance Scheme

The intersection of the National Disability Insurance Scheme (NDIS) with education institutions was raised by many stakeholders (particularly education providers) as an area of some uncertainty, particularly in relation to responsibility for funding supports required both in education settings and elsewhere. The potential disruption to consistency and continuity of support where responsibilities are "grey" was a concern.

4.8.2 Intersections with other legislation

The relationship between the Standards and other legislation and regulation at the national and state levels is not always clear; a number of points of intersection with disability-related instruments featured within consultations for the review. These included the *Disability (Access to Premises - Buildings) Standards 2010* and the *Disability Standards for Accessible Public Transport 2002*, as well as state and territory legislation and regulation.

Glossary of key terms

The definitions provided below are drawn from the Australian Human Rights Commission, the Disability Standards for Education 2005 and guidance notes.

TERM	DEFINITION
Associate	Associate, in relation to a person, includes: <ul style="list-style-type: none"> • a spouse of the person • another person who is living with the person on a genuine domestic basis • a relative of the person • a carer of the person, or • another person who is in a business, sporting or recreational relationship with the person.
Disability	Disability, in relation to a person, means: <ul style="list-style-type: none"> (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: <ul style="list-style-type: none"> (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.
<i>Disability Discrimination Act 1992</i>	The Commonwealth <i>Disability Discrimination Act 1992</i> provides protection for everyone in Australia against discrimination based on disability. It encourages everyone to be involved in implementing the Act and to share in the overall benefits to the community and the economy that flow from participation by the widest range of people.
Discrimination	Disability discrimination happens when people with a disability are treated less fairly than people without a disability. Disability discrimination also occurs when people are treated less fairly because they are relatives, friends, carers, co-workers or associates of a person with a disability.

TERM	DEFINITION
Policy makers and regulators	Reference to policy makers and regulators generally means governments and government agencies responsible for setting education policy. Roundtable sessions for this group also included peak bodies for the independent and catholic school sectors.
“on the same basis as...”	<p>An education provider treats a student with a disability on the same basis as a student without the disability if the student has opportunities and choices, which are comparable with those offered to students without disabilities, in relation to:</p> <ul style="list-style-type: none"> • admission or enrolment in an institution; and • participation in courses or programs and use of facilities and services.
Peaks and advocates	Reference to peaks and advocates means organisations representing the interests of people with disability.
Reasonable adjustment	An adjustment is a measure or action taken to assist a student with a disability to participate in education and training on the same basis as other students. An adjustment is reasonable if it achieves this purpose while taking into account the student’s learning needs and balancing the interests of all parties affected, including those of the student with the disability, the education provider, staff and other students.
Unjustifiable hardship	It is not unlawful for an education provider to fail to comply with a requirement of the Standards if, and to the extent that, compliance would impose unjustifiable hardship on the provider. The exception of unjustifiable hardship does not apply to the Standards for harassment and victimisation.

References

- Commonwealth of Australia. (2005). *Disability Standards for Education 2005*. Retrieved from <http://education.gov.au/disability-standards-education>.
- Commonwealth of Australia. (2011). *National Disability Strategy 2010–2020*. Retrieved from https://www.dss.gov.au/sites/default/files/documents/05_2012/national_disability_strategy_2010_2020.pdf.
- Commonwealth of Australia. (2012). *Government Response to the Review of the Disability Standards for Education 2005*. Retrieved from http://docs.education.gov.au/system/files/doc/other/government_response_to_the_review_of_the_disability_standards_for_education_2005.pdf.
- Department of Education. (2014). *Disability Standards for Education: Stocktake of Jurisdictional Activities and Resources*. <http://docs.education.gov.au/system/files/doc/other/disability-standards-for-education-stocktake.pdf>
- Disability Reform Council. (2014). *National Framework for Reducing and Eliminating the Use of Restrictive Practices in the Disability Services Sector*.
- National Centre for Student Equity in Higher Education. (2014). *Student Equity Performance in Australian Higher Education: 2007 to 2012*: Curtin University.
- National Centre for Vocational Education Research. (2015). *Australian vocational education and training statistics: Students with a disability 2014*.
- PhillipsKPA. (2015). *Draft Report Evaluation of the More Support for Students with Disabilities Initiative* (unpublished).
- Productivity Commission. (2011). *Report on Government Services 2011*.
- Productivity Commission. (2015). *Report on Government Services 2015*.

Disclaimer

This report is dated 17 July 2015 and incorporates information and events up to that date only and excludes any information arising, or event occurring, after that date which may affect the validity of Urbis's opinion in this report. Urbis prepared this report on the instructions and for the benefit only, of the Department of Education and Training (Instructing Party) for the purpose of the 2015 Review of the Disability Standards for Education 2005 (Purpose) and not for any other purpose or use. To the extent permitted by applicable law, Urbis expressly disclaims all liability, whether direct or indirect, to the Instructing Party which relies or purports to rely on this report for any purpose other than the Purpose, and to any other person which relies or purports to rely on this report for any purpose whatsoever (including the Purpose).

In preparing this report, Urbis was required to make judgements which may be affected by unforeseen future events, the likelihood and effects of which are not capable of precise assessment.

All surveys, forecasts, projections and recommendations contained in or associated with this report are made in good faith and on the basis of information supplied to Urbis at the date of this report, and upon which Urbis relied.

Whilst Urbis has made all reasonable inquiries it believes necessary in preparing this report, it is not responsible for determining the completeness or accuracy of information provided to it. Urbis (including its officers and personnel) is not liable for any errors or omissions, including in information provided by the Instructing Party or another person or upon which Urbis relies, provided that such errors or omissions are not made by Urbis recklessly or in bad faith.

This report has been prepared with due care and diligence by Urbis and the statements and opinions given by Urbis in this report are given in good faith and in the reasonable belief that they are correct and not misleading, subject to the limitations above.

Appendix A: Submissions and participants

This appendix lists the organisations which made formal submissions to the review process and those who were represented at roundtable consultations or interview. In addition, 99 individuals shared a story via the online portal, and 114 participated the online discussion forums.

Submissions received

NUMBER	ORGANISATION / INDIVIDUAL NAME
001	Autism South Australia
002	Global Access Project
003	ParaQuad Association of Tasmania Inc.
004	Deaf Society of New South Wales
005	Communication Rights Australia
006	Macquarie ADHD Support
007	Disability Advocacy New South Wales
008	Australian Association of Christian Schools (AACCS), Adventist Schools Australia (ASA), Christian Schools Australia (CSA) (joint submission)
009	The Anne McDonald Centre
010	Gold Coast Dyslexia Support Group
011	Ethnic Community Services Co-operative
012	Blind Citizens Australia
013	CHI.L.D Association
014	Defy Dyslexia
015	United Voices for People with Disabilities
016	Victorian Catholic Schools Parent Body (VCSPB)
017	Equity Practitioners in Higher Education Australia
018	Queensland Teacher's Union
019	Southern Cross University
020	Disability Discrimination Legal Service
021	Multicultural Disability Advocacy Association of NSW
022	Carers Australia

NUMBER	ORGANISATION / INDIVIDUAL NAME
023	Disability Advocacy Victoria
024	Australian Tertiary Education Network on Disability
025	National Disability Coordination Officers Programme
026	Australian Sign Language Interpreters Association
027	South Pacific Educators in Vision Impairment
028	Confidential
029	Catholic School Parents Australia
030	Central Queensland University
031	Guide Dogs Australia
032	National Association of Australian Teachers of the Deaf
033	Developmental Disability Western Australia People With a Disability Western Australia
034	Australian Parents Council Inc.
035	Deaf Australia (South Australia)
036	STAR Victoria
037	Northern Territory Anti-Discrimination Commission
038	Speech Pathology Australia
040	Amaze Victoria
041	Catholic Education Commission NSW
042	Vision Australia
043	Family Advocacy (NSW)
044	Carers NSW
045	Equal Opportunity Commission South Australia
046	Australian Council of State School Organisations
047	Australian Education Union
048	Children with Disabilities Australia, the Australian Council of State School Organisations, People With Disability Australia, Women with Disabilities Australia, Youth Disability Advocacy Service (joint submission)
049	Queensland Association of Special Education Leaders
050	Parents Victoria

NUMBER	ORGANISATION / INDIVIDUAL NAME
051	Specific Learning Difficulties Association of NSW
052	Independent Schools Council of NSW
053	Stop Smart Meters Australia Inc.
054	Inclusion Melbourne
055	Department of Education Western Australia
056	Ronald McDonald House Charities
057	University of Western Sydney
058	Insight Education Centre for the Blind and Vision Impaired
059	Association of Independent Schools of South Australia
060	Australian Primary Principals Association
061	Ron McGlynn – McGlynn Educational Media
062	Julie Phillips
063	Brian Donovan
064	Melissa Yates
065	Department of Education Tasmania
066	Grant Lindsay
067	National Disability Services
068	Wendy Johnson
069	Carol Barnes
070	Chris Kilham - University of Canberra
071	Rowena Lamb
072	Lyn Stone – Lifelong Literacy
073	Catia Malaquias
074	Cathy Basterfield – Access Easy English
075	Alison Wilson
076	Anne Cole
077	Fiona Ostoja
078	Jan Stead
079	RMIT University

NUMBER	ORGANISATION / INDIVIDUAL NAME
080	Name withheld
081	Name withheld
082	Catherine Nell
083	Confidential submission
084	Confidential submission
085	Name withheld
086	Kirsty Bozanich
087	Confidential submission
088	Name withheld
089	Name withheld
090	Confidential submission
091	Confidential submission
092	Confidential submission
093	Confidential submission
094	Confidential submission
095	Confidential submission
096	Confidential submission
097	Confidential submission
098	Confidential submission
099	Confidential submission
100	Jodi Wilkins
101	Confidential submission
102	Confidential submission
103	Christine Hennessey
104	Confidential submission
105	Confidential submission
106	Robin Lynne McVeigh
107	Confidential submission
108	Name withheld

NUMBER	ORGANISATION / INDIVIDUAL NAME
109	Confidential submission
110	Greg Alchin
111	Priyanka Bandara
112	Jennifer Laviopierre
113	Confidential submission
114	Confidential submission
115	Confidential submission
116	Confidential submission
117	Confidential submission
118	Confidential submission
119	Confidential submission
120	Confidential submission
121	Confidential submission
122	Confidential submission
123	Confidential submission
124	Confidential submission
125	Confidential submission

Roundtable/interview participants

Organisations represented at roundtables or interviewed are listed below (in many cases, multiple representatives attended from one organisation). A number of individuals who were not representing organisations also participated in roundtable discussions.

ACT Human Rights Commission

ACTIV Pathways

Australian Education Union (Federal)

Australian Education Union (SA Branch)

Australian Education Union (Victorian Branch)

Anti-Discrimination Commission (NT)

Anti-Discrimination Commission Queensland

Anti-Discrimination Commissioner Office
(Tasmania)

ARC Disability Organisation

Arthritis ACT

Association for Children with Disability

Association of Independent Schools of NSW

Association of Independent Schools of South
Australia

Association of Parents & Friends of ACT Schools Inc

Australian Association of Special Education

Australian Centre for Disability Law

Australian College of Training

Australian Council for Private Education and Training

Australian Council of Jewish Schools

Australian Dyslexia Association

Australian Education Union

Australian National University

Australian Parents Council

Australian Primary Principals Association

Australian Skills Quality Authority

Australian Special Education Principals Association

Australian Tertiary Education Network on Disability

Autism Aspergers Advocacy Australia

Autism Queensland

Autism SA

Canberra Deaf Children's Association

Canberra Institute of Technology

Carers NSW

Catholic Education Office Melbourne

Catholic School Parents Australia

Central Queensland University

Chaffey Secondary College

Charles Darwin University

Child Australia

Children & Young People Commission

Children with Disability Australia

Children with Disability Australia

Christie Centre Inc

Communication Rights Australia

Community Colleges Australia

Community Resource Unit

Curtin University

Darwin Community Legal Service

Deaf Services Queensland

Deakin University

Department of Education Tasmania

Developmental Disability WA

Disability Advocacy & Complaints Service of SA

Disability Advocacy Victoria

Down Syndrome SA

DSF Literacy and Clinical Services

Early Childhood Australia Queensland Branch

Early Childhood Australia Tasmania Branch

Early Childhood NSW

Edith Cowan University

Education and Training Directorate

Education Services Australia

Endeavour Foundation

Epilepsy Queensland Inc	Monash University
Equal Opportunity Commission (SA)	Multicultural Disability Advocacy Association
Errington Special Education Centre	Municipal Association of Victoria
Ethnic Disability Advocacy Network	Murdoch University
Family Transition Network	National Association of Australian Teachers of the Deaf
Federation of Parents and Friends	National Disability Coordination Officer Programme
Federation University, Australia	National Ethnic Disability Alliance
Flinders University	National Territory Education Union
Gifted with Learning Disabilities (GLD) Australia	Nemarluk School
Griffith University	NSW Department of Education and Communities
Hunter Institute of Mental Health	NSW Teachers Federation
Independent Schools Council of Australia	NT Department of Education
Independent Schools Queensland	One Certification
Independent Schools Tasmania	ParaQuad Association of Tasmania
Independent Schools Victoria	People with Disability Australia
La Trobe University	Physical Disability Council of NSW
Learning Difficulties Australia	Queensland Association of Special Education Leaders
Legal Aid NSW	Queensland Catholic Education Commission
Life Without Barriers	Queensland Curriculum and Assessment Authority
Myalgic Encephalomyelitis/Chronic Fatigue Syndrome/Fibromyalgia Support Association Qld Inc	Queensland Department of Education and Training
Mental Health Carers Association of Relatives and Friends of the Mentally Ill Australia	Queensland Parents for People with a Disability
Merbein P-10 College	Queensland Teachers' Union
Mildura Rural City Council	
Mildura South Primary School	

Royal Melbourne Institute of Technology
University

SA Department for Education and Child
Development

South Australian Certificate of Education
Board of South Australia

Speak Out

Specific Learning Difficulties Association of SA

State School Teachers' Union of WA

Sunraysia Institute of Technical and Further
Education

Swinburne University of Technology

Tasmanian Catholic Education Office

Tasmanian Deaf Society

Tasmanian Disability Education Reform Lobby

Tasmanian Families of Deaf and Hearing
Impaired Children

Tasmanians with Disabilities Inc.

TasTAFE

The Shepherd Centre

The University of Sydney

Trinity Lutheran College

University of Adelaide

University of Canberra

University of New South Wales

University of South Australia

University of Tasmania

Victorian Department of Education and
Training

Victorian Equal Opportunity and Human
Rights Commission

Victorian Technical and Further Education
Association

Vision Australia (NSW)

Vision Australia (Qld)

Vision Australia (Vic)

WA Deaf Society

WA Department of Education

WA Disability Services Commission

WA School Curriculum and Standards
Authority

WA School of Special Education Needs,
Disability

Young and Well Collaborative Research Centre

Youth Disability Advocacy Service

Urbis locations

Sydney

Tower 2, Level 23, Darling Park
201 Sussex Street Sydney, NSW 2000
t +02 8233 9900
f +02 8233 9966

Brisbane

Level 7, 123 Albert Street
Brisbane, QLD 4000
t +07 3007 3800
f +07 3007 3811

Melbourne

Level 12, 120 Collins Street
Melbourne, VIC 3000
t +03 8663 4888
f +03 8663 4999

Perth

Level 1, 55 St Georges Terrace
Perth, WA 6000
t +08 9346 0500
f +08 9221 1779

Australia • Asia • Middle East
w urbis.com.au e info@urbis.com.au