To:
Department of Education, Skills and Employment
DisabilityStrategy@dese.gov.au
25 September 2020

Thank you for the opportunity to provide feedback on the Disability Standards for Education (2005). This submission highlights the particular issues for disability practitioners within Higher Education Institutions (HEIs) including institutions with both university and Vocational Education and Training (VET) offerings. For the purposes of this submission we refer to students with a disability or health condition as SWD.

In considering the effectiveness of the Standards, EPHEA has addressed the key foci of the Review as follows:

QUESTION 1: The key question for this Review is whether, and to what extent, the Standards are making a positive difference towards SWD being able to access education and training opportunities on the same basis as students without a disability.

There is no doubt that the Disability Standards for Education (DSE) is an incredibly important document for educators and professional staff across all areas of education from early childhood through to university. EPHEA's focus is on higher education and to this end it is an invaluable tool for practitioners, administrators and educators to support SWD to thrive in education. However, more can be done. The DSE should not be viewed as a set of minimum guidelines that are open to interpretation. It should assist educational institutions to elevate minimum guidelines to what is considered best practice. This is difficult to achieve because of the DSE's intersection with other levers such as effective compliance measures, policy and legislation, and funding issues can impact the efficacy of the DSE. In addition, lack of knowledge about the DSE for both education providers (leaders, teachers, administrators and other professionals) and for SWD and their families is still a significant issue. While this may be out of scope for this Review these are no less important issues which require consideration, and so are included in this submission.

Examples of some concerning current and proposed legislation issues which potentially undermine the positive impact of the Standards include:

The Higher Education Disability Support Program requirement for medical evidence of disability to access reasonable adjustments. Some of the medical evidence requirements are onerous on students and rather than supporting and encouraging students to seek support perpetuate non-inclusive and potentially discriminatory education environments. This is a failure of Australia's UNCRPD (Convention on the Rights of Persons with Disabilities) obligations to provide an inclusive education environment for people with disability (PWD).

In many circumstances such as for students with learning disabilities inclusive accommodations could be put in place without the need for expensive and onerous tests. Students with obvious physical disabilities such as using a wheelchair are also forced to provide medical evidence for observable impairments. This is quite different to requesting more detailed information about the

severity of a disability or health condition so as to customise accommodations appropriately. One avenue is the [UK model](#) that provides access to and pays for independent study needs assessments which could extend across the lifetime of the student's education evolving as the student progresses. Currently, in Australia, it is difficult for students to get these assessments covered by anything other than their own private means, which is inequitable at best, and is further compounded by other factors such as lack of access to such services. Even the small percentage of SWD who are eligible for funding under the NDIS are rarely able to utilise their funding for this purpose, even though such an assessment would benefit all aspects of the student's participation in the community, due to ongoing misconceptions about funding responsibility across different programs.

The second concern is the proposed 'Job Ready Graduates' legislation. In relation to Commonwealth support for students on the basis of their pass rate. The draft legislation, in subsection 36–13, requires that institutions may not advise a person that they are a Commonwealth supported student in relation to a unit of study if, in the case of students studying at the bachelor degree or higher level, they have already undertaken eight (or more) units of study and not passed at least 50 per cent of these units, or for other students, undertaken four (or more) units of study and not passed at least 50 per cent of these units.

It can be argued that this unfairly penalises students for failure in their first year of study, especially as the repercussions of COVID-19 will continue to impact on student performance. This is an especially pertinent issue for SWD. SWD have a success rate of 80.3% compared with the national average of 84% (NCSEHE, 2018).

Academic failure should not be met with punitive measures early on especially if there are extenuating circumstances such as being new to higher education, making the wrong course choice, financial issues or disability. Universities have interventions in place to assist in identifying at risk students and providing additional support. Universities also have policies in place to manage student progression/enrolment following failure, including termination of enrolment where a student does not pass a minimum number of units. Such interventions and policies already ensure both student and Commonwealth funds do not continue to be spent where a student is unlikely to complete their qualification. Students also contribute significant funding to their studies and deserve some agency in determining the risk they are willing to take in challenging themselves to undertake and persist with advanced studies.

Recommendations:
1. Utilise the expertise of Australian Disability Clearinghouse on Education and Training (ADCET) to provide guidance on lifting minimum standards within the DSE
2. Consult with disability experts to explore options to review medical advice guidelines under the DSP which impact the DSE
3. Consult with the disability practitioners about the repercussions of the 'Job Ready Graduates' legislation on meeting DSE obligations and supporting SWD.

One of the major issues in the tertiary education space is the increase of SWD enrolling in higher education. Since the last review, the enrolment share of higher education students has increased

more than any other equity group. The National Centre for Student Equity in Higher Education (NCSEHE) statistics below show a 1.11% increase in participation rates over 4 years and growth in participation enrolment figures of 23.87% growth for all SWD from 2015 – 2018.

Access and Participation Per cent (%) and enrolment share - Disability - National (2015 - 2018)

		2015	2016	2017	2018	% point change
%age points	**Access**	5.56	5.88	6.29	6.71	1.15%
	Participation	6.16	6.46	6.82	7.27	1.11%
						Growth
Enrolment #	**Access**	14,204	15,280	16,715	17,643	24.21%
	Participation	44,856	47,970	51,773	55,565	23.87%

The need for universities to provide for this increasing cohort across all activities from recruitment and enrolment through to graduation and employment is paramount. This will ensure that university representation mirrors community representation and that barriers to enrolment, participation and success are removed.

The DSE has provided an important lever and provides clarity for HEIs in interpreting the requirements of the *Disability Discrimination Act 1993*. Since 2005 the DSE has provided additional guidance to practitioners, educators, parents/guardians and students navigating equitable treatment within education systems and institutions.

It is however a complex document and is challenging for many people due to its formal language. Generally, people don't refer to the DSE unless there is a problem so the ability to have a plain English explanation with guidance notes is very important especially for groups who may also be from Culturally and Linguistically Diverse Backgrounds (CALD), Indigenous or Low-socioeconomic (LSES) backgrounds. Options in other languages would also provide additional assistance. This would also offer greater transparency for overseas students who are also serviced by the DSE.

Recommendation:
4. Provide DSE in other languages and work with First Peoples Disability Network to support guidance notes which are culturally-appropriate
5. Establish a Government-funded information and complaints hotline for students to seek advice about lodging complaints regarding their access to tertiary education
6. Build on existing DSE good practice exemplars by providing exemplars specific to the tertiary education environment

---

The Standards do offer an awareness of support for SWD however, the level of awareness of the DSE varies across the sector in terms of awareness and application. While disability practitioners within HEIs are adept in promoting, interpreting and applying the DSE not all HEI staff have the same level of awareness and find it difficult to apply the DSE across an increasingly complex range of learning activities especially where activities like practicums, internships and work-integrated learning is undertaken with third parties.

There is a need for a whole-of-institution response across all areas – teaching, research, administration, human resources – with units responsible for curriculum design and ICT taking carriage of designing systems and course content inclusively. In addition, there should be mandatory DSE training for all staff, with compliance regulated by TEQSA.

Unfamiliarity leads to a great influx of informal and formal complaints processes both internally and externally. The complexity of the complaints process for SWD can be difficult to navigate. This is not only an issue of awareness and application but the ability to adequately resource reasonable accommodations for SWD which causes a tension between best practice and application of the DSE and resourcing implications. The DSE should facilitate a shift towards inclusive practice rather than reinforce culture and practices of accommodations (alignment with UNCRPD Article 24). While it may sit outside the Review's scope it is no less of a contributing factor to the aims of the DSE to 'make a positive difference towards SWD being able to access education and training opportunities on the same basis as students without disability'.

Recommendation:
Increase focus on awareness-raising including:
7. Implementation of University-based mandatory training in the DSE across teaching and learning and administration functions (e.g. admissions, library and other digital resources, work-integrated learning, scholarships etc) which includes clear processes for making complaints
8. A greater role for TEQSA to incorporate compliance requirements into their Acts and Standards.

QUESTION 2: Are the rights, obligations and measures of compliance set out in the Standards (and its Guidance Notes) clear and appropriate?

There are significant differences in awareness, available supports and individual needs for people in primary, secondary and higher education. The Standards are too broad to consider the context of the different education sectors, users and their needs.

Our previous recommendation in the 2015 review was that the DSE should have accompanying exemplars, resources or guidance notes, developed by the Commonwealth in consultation with sector experts, which are education sector-specific to assist the various audiences and users in understanding the intent of the Standards within each sector as the issues vary greatly.

Organisations such as the Australian Disability Clearinghouse on Education and Training (ADCET) and the Australian Tertiary Education Network on Disability (ATEND) are essential resources and networks for disability practitioners which help promote the DSE, and best practice but they are under-resourced. Having the DSE alone without adequate resourcing to promote the Standards, develop resources for best practice, and monitor compliance and complaints is not enough.

In the higher education sector, cases of discrimination become apparent when academic or professional staff are unaware of the guidelines in the first place, so more awareness-raising and training is required – both by the Commonwealth and education providers. Anecdotally, practitioners generally consider that awareness of the DSE in the Higher education sector has not increased over the 15 years of its existence. DSE awareness within the sector was at its height when the Standards were launched in 2005 and it has dissipated over time.

Recommendations:

9. Ensure that various processes for making complaints both internally and externally are clear, consistent and accessible and that students have access to independent advocates both internally and externally to ensure their complaints are heard fairly. These should be written into the guidelines to ensure providers are meeting their obligations

10. TEQSA could again provide leadership in ensuring compliance and enforcement with Acts and Standards and working with the Australian Human Rights Commission in monitoring complaints of this type nationally

---

QUESTION 3: Do students, families and carers, educators, education providers and policy makers know about, understand, apply and comply with the rights, obligations and measures of compliance in the Standards?

Most higher education institutions are generally well-versed in the guidelines however, there is concern that some institutions may not be complying properly and may weigh up consequences o non-compliance or use exceptions to get around some of the issues of meeting obligations.

The DSE provides a clear description of the obligations for universities to consult with students about their needs, to make reasonable adjustments, and to eliminate harassment and victimisation. However, there are a number of disability access issues within HEIs in which the DSE does not provide clarity for providers.

The Standards do not include detail as to whether responsibility for assessment and documentation of a disability resides with the student or the education provider. Generally, the sector interpretation is that the onus is on the student to provide documentation to support their request for reasonable adjustments. Universities routinely receive requests from students to fund the assessment of their disability, particularly for costly Dyslexia screening assessments. In addition, avenues to support independent assessments similar to the UK model could be considered which extend across the lifetime of the student's education.

Increasingly there are issues in transition for students from one education sector to the next and students who may have received different levels of access between high school and university may not understand their responsibilities to provide information to their higher education institution. It would assist if the DSE clarify responsibilities of students and providers in this regard. The addition of the Unique Student Identifier could further assist the transition of students from high school to university.

Recommendations:

11. Utilise Unique Student Identifier to assist students transferring from one educational sector to another carrying across common support needs for references
12. Clarify student and provider responsibilities with respect to the cost of assessments, and consult with disability experts to explore alternative models of assessment to best meet the needs of SWD and HEIs

QUESTION 4: In the 15 years since the Standards were developed, have the Standards contributed towards SWD being able to access education and training opportunities on the same basis as students without disabilities?

Over the past 15 years funding in the sector to provide support has become tighter due to a range of factors including budgetary uncertainty. Whilst student numbers and support needs have increased, funding to the sector provided through the Higher Education Disability Support Program (DSP) is becoming increasingly constrained. Illustrative of this is a 117.7% growth in the number of SWD participating in Higher Education across 2008 – 2017, coupled with a decline in DSP funding per student from $260 in 2008 to $115 in 2017[1]. Despite growth in participation, SWD represent only 6.92% of all Higher Education students[2], this is well below representation of disability in the Australian population at 17.7% in 2018[3]. Only one sixth of adults with disability have completed a Bachelor degree or above, and graduate employment outcomes, at 66.6% employed full-time, are amongst the worst of all measured equity characteristics[4]. In addition, none of the proposed changes to equity funding such as proposed changes to the Higher Education Participation and Partnerships Program (HEPPP) or the new Indigenous, regional and LSES Attainment Fund (IRLSAF) make specific provision for SWD. This is an issue that EPHEA is addressing with the Department of Education but it should also be viewed in relation to efficacy of the DSE. There is some limited provision in the DSP for supporting outreach and recruitment to SWD but this is wholly insufficient to bring representation of PWD within HEIs up to community representation and will impact the efficacy of the DSE.

Disability advocacy organisations have become fewer in the tightening economic climate. As a result, there is a reduction in the capacity of students to utilise the DSE to support their access. Over a number of decades organisations such as EPHEA, ATEND and ADCET have supported the increased professionalisation of disability practitioners with expertise in supporting SWD in tertiary education. The efficacy of the DSE would be improved by increased professionalisation of the sector. For example, development of a graduate level qualification for disability practitioners, opportunities to

---

[1] Universities Australia, *Higher Education: Facts and Figures (July 2019)* https://www.universitiesaustralia.edu.au/wp-content/uploads/2019/08/190716-Facts-and-Figures-2019-Final-v2.pdf

[2] The Australian Government – Power BI Tool, Accessed September 2020

[3] Disability, Ageing and Carers, Australia: Summary of Findings, 2018 Accessed September 2020

[4] QILT Graduate Outcomes Survey 2019 National Tables https://www.qilt.edu.au/qilt-surveys/graduate-employment

improve inclusive learning practices for teaching staff and an ongoing Continued Professional Development system. Groups like EPHEA, ATEND, and ADCET can assist to facilitate and propel this forward.

At the same time, universities have increased the flexibility of delivery with more online and mixed-mode study. This has reduced some barriers and created others. For example, barriers relating to physical infrastructure and travel has reduced because of the flexibility of accessing course materials and supports. However, new challenges for some groups have emerged, such as challenges posed by real time interactive online teaching for people who are vision and hearing impaired or with certain learning disabilities.

There has been an accelerated increase in online learning (especially during COVID-19) which aren't truly accessible for all types of learners and where learners aren't able to access all technologies. The intersectionality of SWD who are also Indigenous, regional and remote, CALD or LSES means that they may have additional barriers to accessing education online including digital literacy, access to devices, access to devices of their own in the home, access to NBN or internet infrastructure, affordability of technology and broadband etc. This is exacerbated by the delivery of online learning without alternative options.

Improvements in digital environments to reduce inaccessibility for students or staff with a disability are evolving quickly and many universities are not keeping up. This is causing tension in meeting the Standards. While Universities endeavour to be inclusive through digital technologies there are areas for improvement that could be supported through targeted projects and funding to support digital solutions.

In 2014 the Commonwealth Government provided [National Priority Pool](#) funding to support software solutions for universities to identify and support low-SES students. A similar grants process could be put into place to fast-track digital solutions for SWD. ADCET and EPHEA could assist in identifying particular software solutions that would provide the best return on investment and find economies of scale. This would assist in ensuring universities are meeting their obligations under the standards, sharing best practice and finding consistent digital solutions. Some areas of need include access to library materials in accessible formats, notetaking, upskilling in online teaching and learning, and expanding interpreting and captioning services for deaf and hard of hearing students.

Recommendation:
13. Consider increasing funding to support organisations like ADCET to engage additional expertise to support national training and awareness programs for academic and professional staff in tertiary institutions
14. Support the professionalisation around disability practitioners and teaching and learning staff who are qualified to provide truly inclusive disability support and meet DSE obligations
15. Consider opportunities for national grants to assist with digital innovation across education sectors which will improve accessibility for People with Disability
16. Consider development and implementation of a National Students with Disability in Tertiary Education Strategy as per recent EPHEA and ATEND advice to the Minister.

QUESTION 5: Consider the impact of the Standards on the experiences of Aboriginal and Torres Strait Islander SWD.

There is not enough research or analysis on the impact of disability in education for Aboriginal and Torres Strait Islander peoples and their experiences. Intersectionality of Indigeneity and other factors such as disability, regional or remote locations and/or low socio-economic status has not been adequately analysed through higher education statistics and this issue is becoming increasingly important.

We know through national statistics from the ABS (Australian Bureau of Statistics), Closing the Gap reports, and AIHW (Australian Institute of Health and Welfare) that health and disability impacts for Aboriginal and Torres Strait Islander Peoples show:

- They are almost twice as likely to live with a disability than non-Indigenous people[5]
- 1 In 3 Indigenous youth experienced high levels of psychological distress in 2014-2015 compared to 1 in 8 non-Indigenous[6]
- Over 63% of people aged 15 – 24 reported a disability[7]
- 53% of 20 – 24-year-olds are attending a University or other tertiary institution and 36.5% are attending TAFE[8]

In the FPDN publication 'Culture is Inclusion: A narrative of Aboriginal and Torres Strait Islander people with disability'[9] they identified a number of areas:

- Disability in Aboriginal and Torres Strait Islander communities is twice as prevalent, more complex in terms of co-occurring disabilities, and compressed within a shorter life expectancy, compared to other Australians.
- Aboriginal and Torres Strait Islander people with disability experience a unique form of 'intersectional discrimination' and social inequality.
- The statistical data and testimony of participants show that intersectional inequality is acute and pervasive across all supports for Aboriginal and Torres Strait Islander people with disability; including disability services, health, education, employment housing and transport.
- The impact of intersectional inequality has a detrimental impact upon the social health and wellbeing of Aboriginal and Torres Strait Islander people with disability.
- A culture of inclusion is a moderating force on the social health and wellbeing and has a mitigating impact on intersectional inequality.

Anecdotally, practitioners are aware that Indigenous SWD are less likely to disclose disabilities to disability services. This may be due to a range of reasons such as concepts of disability within

---

[5] Disability, Ageing and Carers, Australia: Summary of Findings, 2015', ABS
[6] Aboriginal and Torres Strait Islander adolescent and youth health and wellbeing 2018 (AIHW, 2018)
[7] Ibid
[8] Ibid
[9] Culture is Inclusion: A narrative of Aboriginal and Torres Strait Islander people with disability. https://fpdn.org.au/product/cultureisinclusion/

Aboriginal and Torres Strait Islander cultures[10]; perception of culturally-appropriate disability services for students; discrimination when seeking services[11]; and awareness of disability services.

The proportion of Indigenous students and SWD enrolling in higher education is rising and given the above statistics it stands to reason that there will be cross-over between these two groups. In addition, with mental health on the rise across society – but particularly for Indigenous peoples and people with disabilities in the 15 – 24 age group particular attention needs to be paid to how Aboriginal and Torres Strait Islander peoples can better access the Standards in their pursuit of education in a meaningful and culturally-safe way and without fear of discrimination.

Recommendation:
17. We recommend liaising with groups such as the First People's Disability Network and exploring research opportunities through the National Centre for Student Equity in Higher Education to investigate this issue more deeply
18. Improved and more fine-grained data collection about SWD in tertiary education is also recommended including better understanding of the transitions between education sectors, complaints, types of disabilities and graduate outcomes

---

QUESTION 6: Consider national collaborative action between jurisdictions and agencies, including action to strengthen the knowledge and capabilities of teachers and educators, and whether any amendments to the Standards should be made.

The Higher Education sector has a range of organisations who assist in bring together expertise of practitioners to better support SWD and facilitate better delivery of education against the Standards.

We strongly recommend working closely with groups such as the Australian Disability Clearinghouse for Education and Training (ADCET), the Australian Tertiary Education Network on Disability (ATEND), and the National Disability Coordination Officer (NDCO) Program to this end. ADCET in particular delivers specific content for practitioners, teachers and students which supports improved outcomes against the Standards. Their role could be expanded with additional funds to support improved awareness and training for all users.

One area of particular concern is the intersection between these organisations and tertiary institutions with the NDIS. There isn't sufficient funding in the Higher Education Disability Support Program (DSP) to support the sort of every day needs of SWD that should be covered by NDIS. However, there is a misconception within the NDIS that some items will be covered. The DSP has strict guidelines it must adhere to and students often miss out on vital supports that should be covered by the NDIS. Disability practitioners within Higher Education institutions are disability experts and could work more closely with NDIS staff if there was a greater understanding of

---

[10] 'FPDN landmark report: Culture is Inclusion', First Peoples Disability Network, fpdn.org.au/cultureisinclusion/
[11] The 2015 ABS survey found that around 15% of Aboriginal people with disability experienced discrimination due to their disability – almost twice the rate for non-Aboriginal people with a disability (8.4%).

guidelines across both areas. This closer collaboration would result in better outcomes for students across all levels of education.

> **Recommendation:**
> 19. Explore increased opportunities for collaboration with existing organisations such as ADCET, ATEND, EPHEA, NDCO and FPDN
> 20. Assist to bridge the divide between these organisations and NDIS with something like a national education taskforce

EPHEA endorses the submission made by ATEND and particularly the information gathered by surveying disability practitioners in Higher Education which has been included in their submission. EPHEA Committee thanks you for the opportunity to provide feedback.

About EPHEA

EPHEA is an organisation of over 1,000 members across Australia and New Zealand, consisting of staff who work in student and staff facing equity roles in higher education (HE) institutions. As the national body of equity practitioners in the Higher Education sector we wish to ensure the continuance of the essential work being undertaken by our members to support access and participation of disadvantaged groups into Higher Education. Our membership includes equity practitioners from all of Australia's universities supporting all equity target groups – Aboriginal and Torres Strait Islander peoples; people from low socioeconomic status backgrounds (LSES); people from regional and remote areas; people with disabilities; people from culturally and linguistically diverse backgrounds; and women in non-traditional areas.

Thank you for your time and if you have any questions, I'd be more than happy to discuss these with you.

Kind Regards,
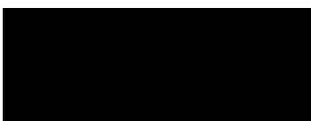
Kylie Austin
President, Equity Practitioners in Higher Education Australasia (EPHEA)
(02) 4252 8885
kaustin@uow.edu.au