

Submission to:

Commonwealth Department of Education and
Training



Communication Rights Australia

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Review of the Disability Standards for Education 2005

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1. Introduction

Communication Rights Australia is a human rights information and advocacy organisation which works in partnership with people who have communication difficulties to assist them to access their rights. People request our service when they experience discrimination and isolation/exclusion. Therefore services are designed to break down barriers and remove discrimination through:

- Individual and systemic advocacy, advice and referral when the system has broken down;
- Information on human rights, entitlements, and the right to communicate;
- Community education and outreach – how to ensure the protection of communication rights.

We represent a range of people on a continuum from severe speech and communication difficulties, such as Autism Spectrum Disorder, acquired brain injury, illness (such as Motor Neurone Disease, stroke, mental health, physical and sensory impairment, intellectual disability), through to children whose capacity to communicate impacts on correctly and consistently sending their message (such as Apraxia). People approach us when their ability to communicate their message is impacting on their ability to access their human rights.

Communication Rights uses the UN Convention on the Rights of People with Disabilities, Victorian Charter of Human Rights and Responsibilities Act, disability discrimination legislation and government policies to ensure people can enjoy their rights. Our activities promote change and facilitate inclusion into community activities.

2. Context of Our Response to the Review of the Disability Standards for Education

Communication Rights Australia's response to the 'Disability Education Standards' Review is based on the documented evidence provided by parents accessing advocacy and identifying concerns that their child is not gaining the same access to education as other children are enjoying. Just over a third of our total advocacy cases over the last two years have been associated with access to education and the refusal of the school to make 'reasonable adjustment' for the child with disability. Our data demonstrates that the difficulties faced by a student at school also impact

on the long-term economic and social outcomes for their families. Parents identified the following due to their students with disabilities facing educational barriers:

- The need to take time off work as the student is being denied the right to attend school and as a result the parent needs to stay home to look after them;
- A feeling of being bullied by school staff and excluded from school activities;
- Feeling depressed and highly anxious – avoiding answering the phone in fear it may be the school telling them to pick up their child.
- Interrupted employment due to teachers ringing parents at work complaining about their child's behaviour.
- Unable to manage or undertake day to day activities due to stress;
- Relationships breaking down between parents, and between parents and their child;
- Parents being fearful of sending their child to school due to concerns regarding the safety and wellbeing of the child as a result of previous incidents that have not been addressed, or have been dismissed, by the school. Example of this was when a child was physically restrained by a teacher and the school refusing to deal alternatively with future potential issues.

Parents are exhausted from constantly battling with staff at the child's school, and not having complaints about such matters progressed successfully by the Victorian Department of Education and Training. Parents often desperately and urgently require the invention of a third party, which is why they contact our organisation.

Our findings confirm there is a lack of understanding within schools of the Disability Education Standards, but even when there is understanding, compliance with those standards is adversely affected by the lack of detail within the Standards, attitudinal commitment to the values espoused in the Standards and in the Disability Discrimination Act.

3. Importance of the Disability Standards for Education

Overall, Communication Rights Australia's experience is that the *Disability Education Standards are not succeeding* in providing children with disabilities the same educational opportunities in regard to participation, inclusion and educational supports, as those without disabilities.

We recommend that Urbis Consulting inform themselves of the issues raised in the Victorian Human Rights and Equal Opportunity Commission 2012 publication - '*Held Back Report*' which demonstrates in detail how Victorian schools are not meeting their obligations under the Disability Education Standards towards children with disabilities.

Children with Disabilities Australia also published research in April 2015 that confirmed children with disability face considerable barriers to a quality education.

In addition *Communication Rights Australia believes the Disability Education Standards do not represent a best practice marker in the prevention of discrimination within the school system.*

4. Measuring the Success of the Disability Education Standards

During 2014, Communication Rights Australia provided parent groups with information sessions on the rights of the child within an education setting, resulting in an increased demand for advocacy. Generally families reported:

- being unaware of the Disability Education Standards;
- being unaware that advocacy was available to assist them;
- high levels of isolation and feeling threatened by their student's school when trying to address issues;
- a high level of complex issues that students and their families were facing; and
- the failure of schools to respond to parents / care givers concerns, and requests for the student's needs to be met.

Specific issues : Reasonable Adjustment

Clarification of 'participation' is required to ensure students with disability 'participate' in an education program.

The school's refusal to adjust to the student's alternative methods of communication:

- ✚ Teachers were not willing to use a student's method of communication, including devices, to facilitate inclusion;
- ✚ Individual school policies reflecting a refusal to support students who require communication partners to assist them in communicating their needs within the classroom;
- ✚ Concern by teachers that a students' vocalising may disrupt their class. This assumption emanates from a failure by teachers to

understand the student (due to not being trained in their communication method), and therefore a decision that such communication did not have intent and therefore they should be placed in another room to not distract other students;

- ✚ View held by teachers that a child who has complex communication needs should be attending a special school with other children 'like them';
- ✚ Schools expressing their opinion that the non-verbal students do not need a communication device, despite a lack of qualifications to hold such an opinion;
- ✚ Programs not being modified to cater for the students' communication disability and learning requirements;
- ✚ Schools requiring the student to undertake oral and written tests / exams while eliminating the student's electronic mean to communicate;
- ✚ No allowance made during exam time for students using alternative means to communicate to complete their tasks.

The Standards include a requirement for an 'adjustment to be reasonable so that all students with disability have the ability to achieve learning outcomes'.

Refusal of the school to develop an Educational or Behaviour Plan for individual student with disabilities to achieve their learning outcomes:

- ✚ Schools reporting that non-verbal students do not need a communication device and the student's behaviours need to be addressed first before their communication needs are implemented. Little understanding is demonstrated to the relationship between the two, despite significant research underpinning this issue.
- ✚ Lack of understanding as to the role of 'Individual Learning and Behaviour Plans'. Despite the school's obligation to establish Individual Learning Plans, parents reported schools did not see it as their responsibility, despite the fact that they often held the view that the child should not attend school until behaviour improved. There is a lack of understanding of the requirements to look at the school environment as a contributor to behaviours.
- ✚ Generally schools do not liaise with the relevant professionals or familiarise themselves with the child's communication methods to assist them in understanding the child's behaviours and what they are communicating, internal Department of Education and Training

policies around educational planning for students with disabilities are not followed.

Inability to support students due to funding restrictions:

- ✚ Students who have been allocated 1:1 funding for a full time aide to assist with their individual communication needs being pressured to share their aide to assist all other students, due to overall inadequate funding at the school for students with disabilities;
- ✚ Students only being offered part time attendance due to funding restrictions and the insistence by schools that the student cannot attend without an aide;
- ✚ Refusal to enroll students due to disability;
- ✚ Students labelled a Occupational Health and Safety risk as they don't sit still and pay attention or a safety risk to other students when playing;
- ✚ Schools establishing their own internal zoning restrictions which apply to students with disabilities but not those without.

Additional barriers:

- A school charging hundreds of dollars for the student to have a trial day yet there is no communication support worker or aide available to assist them;
- Principals blaming the students' parents for the student's behaviours at school, telling them they are 'only' the parents and for them to 'stay out of the students education and leave that to the teachers'.

5. Conclusion

Even with specialised professional information being provided to parents and schools, advocacy is often required to supplement and support actions for things to change. Attitudinal issues continue to impact negatively on access to education for students with disabilities. Hence demand for advocacy within schools is increasing, with anxious and stressed family members not being able to resolve issues directly with the schools or the Department of Education and Training, culminating in polarised environments.

Families are unaware of their rights within school settings. There is little understanding of Department of Education and Training processes and the obligations of schools to meet the Disability Education Standards. This

leaves parents confused and vulnerable to having their child discriminated against.

Students Support Network (families and carers) reported little is known about how to access advocacy for support. When faced with barriers within the school system they were left confused, isolated, disempowered and helpless. Although a few reported that they had received advocacy from other services, there was often no acceptable resolution. Families reported that they were aware of the injustice of the situation but felt they had no option but to accept what the school was doing to their child.

It is the opinion of Communication Rights Australia that the Disability Education Standards are too broad and open to interpretation to be a meaningful tool to establish best practice for the inclusion and participation of children with disabilities into the school environment.

6. Recommendations

1. All Australian children should receive an education and be supported to achieve this goal hence the existing standards need to be revised.
2. Input from legal services should be obtained to reframe the new Disability Education Standards in order that they are more precise and clarify the obligations of education providers unequivocally.
3. Communication Rights recommends the government use 'Individuals with Disabilities Education Act' (IDEA) as a guiding model to ensuring services to children with disabilities are improved.
4. An overarching statement on the value of a diverse school environment with links to United National Convention on the Rights of the Child should be included within a new Standard.
5. The new Standards include a requirement that all students with disabilities have a Positive Individual Education and Behaviour Plan which cannot be implemented without the agreement of parents or their representative.
6. Presently the schools emphasis is on the student's deficits. Consideration within the new Standards should be given to reframing this approach to a principle of inclusion, ability and support.

7. The new Standards recommend the development of Positive Behaviour Plans as an example of best practice strategy for the participation of students. Plans may require the input of expert practitioners so they reflect best practice strategies.
8. A robust Disability Education Hotline, independent of the school system, should be established to provide information, advice and a complaints mechanism to provide clarity on the rights of students, with a mechanism to monitor complaints. This should take the form of a Schools Commissioner in each state established by law.