



Australian Government  
Department of Education,  
Skills and Employment

# Disability Standards for Education 2005 2020 Review

Final Report

*Disability Standards for Education 2005, 2020 Review*

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# Executive summary

## The Standards

The *Disability Standards for Education 2005* (the Standards) are subordinate legislation to the *Disability Discrimination Act 1992* (the DDA). They do not create new obligations, but seek to clarify education providers' responsibilities under the DDA and ensure that students with disability can access and participate in education on the same basis as students without disability. It is a requirement that the Standards be reviewed every 5 years. This 2020 Review (the Review) is the third since the Standards came into effect.

## The 2020 Review

The Department of Education, Skills and Employment (the department) undertook the Review throughout 2020. Consultation with national peak disability and education bodies informed the approach taken for the Review, which put the lived experiences of people with disability and their families at the centre. The intersectional factors that can affect students with disability were acknowledged. The Review had a focus on the experiences of Aboriginal and Torres Strait Islander students and their families. It was also undertaken during the COVID-19 pandemic.

Participants in the Review engaged via a dedicated online Consultation Hub in various formats, with activities such as webinars, focus groups, and questionnaires. All consultation activities were designed to be user-friendly and accessible. In addition to the public consultations, the Review met with key national agencies, regulators, and sector representatives, and was guided by a reference group of state and territory officials across all education sectors. A Young People's Advisory Group was formed to hear directly from young people with disability.

## Review findings and reform directions

The Review identified 2 areas within the Standards that require amendment to support "*the effectiveness of the Standards in achieving their objects*"; first, clarification of expectations for consultation, issues resolution and complaints handling processes, and, second, inclusion of early childhood education and care (ECEC) within the Standards. However, most findings relate to awareness, understanding and implementation of the Standards.

Recommendations reflect the 3 reform directions emerging from consultations which apply across all education sectors (preschool/kindergarten, school, vocational education and training, and higher education), and one specific to the ECEC sector:

- Empowering and supporting students with disability and their families
- Strengthening the knowledge and capability of educators and providers
- Embedding accountability for the Standards throughout the education system
- Building awareness and capability in the ECEC sector.

The schooling sector features most prominently throughout the recommendations, reflecting the compulsory nature of this sector and the length of time students with disability engage with this part of the education system. The ways in which the reform directions are addressed across education sectors vary, reflecting the different ways each sector operates.

### ***Recommendations reflect the distribution of responsibilities for delivery of education***

The Commonwealth has responsibility for recommendations related to the development of awareness-raising material, amendments to the Standards and appropriate use of its levers (e.g. school funding) to support implementation of the Standards. There is joint Commonwealth-state responsibility for recommendations related to national policy and regulatory architecture, which is largely jointly owned. States, territories and school education authorities are asked to take forward a small number of recommendations, mostly schooling-related.

### ***Empowering and supporting students with disability and their families***

The Review heard that as students with disability and their parents and carers seek to find their way through the education system, the onus rests on them to understand the system and advocate for reasonable adjustments rather than this being proactively offered by education providers. Additionally, the power imbalance between the education provider and the student, parents and carers made people reluctant to raise issues for fear of negative consequences.

The Review aims to drive improved navigation of the education system for students with disability and their families by proposing accessible information products on the Standards co-designed by people with disability; amendments to the Standards to include principles for consultation, issues resolution and complaints handling processes for students with disability; and options to transfer information about disability and reasonable adjustments when a student makes transitions within the education system, commencing with the school sector.

### ***Strengthening the knowledge and capability of educators and providers***

The Review heard that positive educational experiences for students with disability feature motivated and capable individual educators and school leaders, however positive experiences were only reported by a small number of Review participants. The Review heard that many educators are unaware of their obligations under the Standards or lack the resources to implement them, and those who are aware struggle to find guidance and clarification on how to implement them. Teaching and learning are enhanced when educators are trained in the Standards, know how to implement them, and are supported by employers, systems and communities. Additionally, educator cultural awareness was seen as vitally important for Aboriginal and Torres Strait Islander students.

Review recommendations seek to strengthen information, resources and training for educators and education providers.

### ***Embedding accountability for the Standards throughout the education system***

The Review heard that accountability for the implementation of the Standards is lacking and does not drive changes to the education system. Participants felt that the current complaints-based mechanism used for compliance under the DDA has the effect of redressing individual situations but does not readily support or drive systemic change. Many organisations called for the mandatory collection and release of information on providers' compliance with the Standards, noting the absence of such data contributes to a lack of public and private scrutiny. A common view was that there are few consequences when providers are non-compliant with the Standards.

Review recommendations seek national alignment of education policies and regulations to the Standards. This will streamline arrangements for the education sector by incorporating existing legal obligations under the DDA/Standards into relevant national and state standards and frameworks, which will have the effect of ensuring all national and state regulators of education have regard to the Standards when undertaking relevant regulatory activity. To support further transparency, the Review recommends states and territories commission development of nationally consistent principles and practices on collection and public reporting of data on school students with disability.

It further recommends education authorities publish accessible and user-friendly information for parents on their websites about the services and supports their schools provide for students with disability. It is proposed this be a condition of education authorities receiving Commonwealth school funding.

### ***The COVID-19 pandemic amplified existing challenges***

The experiences of families of students with disability were mixed during the COVID-19 pandemic. Overall, families reported a loss of support and connection which adversely impacted on their children's educational progress and connection with their educational providers.

### ***Early childhood education and care – a key starting point for change***

While the Standards do not apply to 'child-care providers', these providers are subject to the DDA. A separate stream of consultations was undertaken to consider awareness, understanding and application of the DDA within the ECEC sector. The Review found a need for better information for parents and carers, and more resources for educators to build awareness and understanding of the DDA in an ECEC context.

The Review heard strong support for ensuring national alignment of ECEC policies and regulations to the DDA. This body of work would set a strong foundation of awareness and capability ahead of proposed consultations in 2023 on draft amendments to the Standards in relation to the ECEC sector.

### ***Experiences of Aboriginal and Torres Strait Islander students with disability***

The Review consultations included a focus on the experiences of Aboriginal and Torres Strait Islander students with disability. The Review heard that these students faced additional challenges and experienced what is described as 'double discrimination', leading to poorer experiences and outcomes. Consideration of Aboriginal and Torres Strait Islander students with disability (and all groups experiencing intersectional disadvantage) should be embedded in the design of services and supports for students with disability and will be factored into implementation of all Review recommendations.

## **Implementing the Review recommendations**

While the Australian Government has responsibility for undertaking the Review of the Standards, responsibility for the delivery of many aspects of education – and therefore for implementation of the Standards in practice – rests with states and territories. A joint effort will be required to implement the Review recommendations. The Australian Government will also work closely with educators and state and territory education authorities in developing approaches to implementation of recommendations.

Consultation and co-design with people with disability, including Aboriginal and Torres Strait Islander people with disability, will inform implementation of the Review recommendations. Educators, education authorities and education providers will also be consulted on how best to implement the recommendations.

The Australian Government could commit to public annual reporting of implementation progress against each of the Review recommendations to increase transparency and accountability.

# Recommendations

## Recommendation 1

That the Australian Government Minister for Education **develop information products on the Standards (“Know your rights”) for students, parents and carers** that are co-designed with people with disability. The products will be provided to relevant Australian Government agencies and states and territories to promote within their respective areas of responsibility and provide at relevant points in a student’s life.

## Recommendation 2

That the Australian Government **amend the Standards to include principles on consultation, issues resolution and complaints handling processes.**

## Recommendation 3

That the Australian Government Minister for Education and the Australian Government Minister for Skills seek agreement from education and skills ministers to work together to **consider options to support student transitions by transferring relevant information about a student’s disability between education providers.** Work should focus on student transitions within the school sector in the first instance, with a view to supporting transitions between education sectors.

## Recommendation 4

That the Australian Government Minister for Education, in consultation with people with disability:

- **Review and expand the current Exemplars of Practice** available on the Australian Government Department of Education, Skills and Employment website
- **Develop information (“Know your responsibilities”) for education providers** and bodies involved in the development and accreditation of curriculum.

The products will be provided to relevant Australian Government agencies and states and territories to promote within their area of responsibility to ensure all staff understand their obligations.

## Recommendation 5

That the Australian Government Minister for Education write to education ministers (or school education authorities where relevant) encouraging them to:

- **Ensure all school teachers and leaders have appropriate training on the Standards and supporting students with disability** with consideration given to how this training relates to teacher registration processes. States and territories may also wish to consider a nationally consistent approach
- **Ensure induction processes for graduate teachers in both government and non-government schools** provide an appropriate focus on the Standards and supporting students with disability.

## Recommendation 6

That the Australian Government Minister for Education ask the Department of Education, Skills and Employment Equity in Higher Education Panel to examine ways to **embed the Standards in higher education institution policies and practices across the student lifecycle (pre-access, access, participation, attainment, and transition out) at both an undergraduate and postgraduate level, as well as in workforce capability policies**, as part of its development of the *Student Equity in Higher Education Roadmap*.

## Recommendation 7

That the Australian Government Minister for Education and the Australian Government Minister for Skills seek agreement from education and skills ministers to work together to ensure **national alignment of education policies and regulations to the Standards**. This alignment will streamline arrangements for the education sector by incorporating existing legal obligations under the DDA/Standards into relevant national and state standards and frameworks, which will **have the effect of ensuring all national and state regulators of education have regard to the Standards** when undertaking relevant regulatory activity.

Consideration should be given to amending relevant national and state standards and frameworks and/or their supporting policy and guidance material to support achievement of the objectives of the Standards. Relevant standards and frameworks could include:

- the Australian Professional Standards for Teachers
- the Australian Professional Standard for Principals and the Leadership Profiles
- the Australian Curriculum
- Standards and procedures for accreditation of initial teacher education programs in Australia
- Standards and procedures for registration of schools
- Framework for Teacher Registration in Australia
- Standards for Registered Training Organisations
- Standards for VET Accredited Courses
- Standards for VET Training Packages
- Standards for VET Regulators
- Higher Education Standards Framework.

## Recommendation 8

That the Australian Government Minister for Skills work together with skills ministers through the Heads of Agreement for Skills Reform to **identify opportunities to strengthen delivery of vocational education and training for students with disability**.

## Recommendation 9

That the Australian Government Minister for Education **require all education authorities to make information publicly available on their website about the services and supports their schools provide for students with disability** as a condition of Commonwealth school funding from 2022. The information should be easily accessible and understood by parents and carers.

## Recommendation 10

That the Australian Government Minister for Education seek agreement from education ministers to **commission development of nationally consistent principles and practices on collection and public reporting of data for school students with disability** to support assessment of the extent to which they are accessing and participating in education on the same basis as their peers without disability.

## Recommendation 11

That the Australian Government Minister for Education write to:

- Education ministers and state auditors-general to **recommend inclusion of at least one performance audit related to implementation of the Standards in the auditor-general's work programs by 2024** (in order to inform the 2025 Review of the Standards). This could be through consideration of the implementation of the Standards where relevant to an aspect of an existing planned performance audit

and

- Relevant Australian Government ministers to ask them to **ensure any arrangements within their portfolio for education or training delivery or course curriculum development and accreditation have appropriate regard to the requirements of the Standards.**

## Recommendation 12

That the Australian Government Minister for Education **build early childhood education and care (ECEC) sector awareness and capability regarding the *Disability Discrimination Act 1992 (DDA)* by developing information products for parents and carers.** The products will be provided to relevant Australian Government agencies, the Australian Children's Education and Care Quality Authority, and states and territories to promote within their respective areas of responsibility.

By 2023, the Australian Government will prepare **draft amendments to the Standards to incorporate ECEC** for sector consultation.

## Recommendation 13

That the Australian Government Minister for Education seek agreement from education ministers to **build early childhood education and care (ECEC) sector awareness and capability regarding the *Disability Discrimination Act 1992 (DDA)*** by:

- Asking the Australian Children's Education and Care Quality Authority to develop and implement an **awareness campaign and resources for ECEC providers**
- **Ensuring national alignment of early childhood education and care policies and regulations to the DDA**
  - This alignment will streamline arrangements for the ECEC sector by incorporating existing legal obligations under the DDA into relevant national and state standards and frameworks. It will **have the effect of ensuring state regulators of ECEC have regard to the DDA** when undertaking relevant regulatory activity
  - Consideration should be given to amending relevant national and state standards and frameworks and/or their supporting policy and guidance material to support achievement of the objectives of the Standards. Relevant standards and frameworks could include the National Quality Framework.

# 1. Overview of the Review

## 1.1 Introduction

Education has the power to transform lives. It supports all people to realise their potential by providing skills they need to participate in the economy and in society, and contributing to every aspect of their wellbeing<sup>1</sup>.

The Alice Springs (Mparntwe) Education Declaration, agreed by all education ministers in December 2019, sets out a vision for Australia of a world class education system that encourages and supports every student to be the very best they can be, no matter where they live or what kind of learning challenges they may face.

This vision includes students with disability, who are a part of every aspect of education.

In the 2018 ABS Survey of Disability, Ageing and Carers (SDAC), 3.7 per cent of 0-4 year olds, 9.6 per cent of 5-14 year olds and 9.3 per cent of 15-24 year olds were reported as having a disability. Overall in 2018, people with disability made up 17.7 per cent of the Australian population, which equates to more than 4.3 million people.

Further, in 2019, nearly 1 in 5 (19.9 per cent) school students across Australia received an adjustment due to disability according to the Nationally Consistent Collection of Data on School Students with Disability (NCCD).

## 1.2 The Disability Standards for Education 2005

The *Disability Standards for Education 2005* (the Standards) came into effect on 18 August 2005. They seek to ensure that students with disability can access and participate in education on the same basis as students without disability.

The Standards are subordinate legislation to the *Disability Discrimination Act 1992* (the DDA); this means they sit under the Act. Under the DDA, it is unlawful to discriminate against a person because of their disability. The DDA protects people with disability against discrimination in many areas of public life, including education.

Under Part 2 Division 2 of the DDA, the Attorney-General may make Disability Standards to specify rights and responsibilities about equal access and opportunity for people with a disability in more detail than the DDA itself provides.

The following Standards have been made under the DDA:

- *Disability Standards for Accessible Public Transport 2002*
- *Disability Standards for Education 2005*
- *Disability (Access to Premises – Buildings) Standards 2010.*

If a person acts in accordance with the Standards, they comply with the DDA. An education provider must comply with the Standards or it will be acting unlawfully.

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<sup>1</sup> Education Council (December 2019), *Alice Springs (Mparntwe) Education Declaration*

### 1.2.1 Purpose of the Disability Standards for Education 2005

The Standards do not create new obligations. Their purpose is to clarify the education provisions of the DDA. They are intended to make it easier to understand the rights and obligations under the DDA.

They were developed in response to calls from education providers seeking a timelier and more accessible alternative to the clarification of the rights of people with disability offered by decisions in cases determined through the legal system. Compliance with the Standards is a legal defence to a claim under the DDA; other guidance material and supporting information does not have the same legal standing.

The Standards cover enrolment, participation, curriculum (its development, accreditation and delivery), student support services, and the elimination of harassment and victimisation.

Each part of the Standards sets out the rights of students with disability (including prospective students) to help people understand what is fair and reasonable under the Standards, and the legal obligations or responsibilities of education providers.

Education providers covered by the Standards include preschools (including kindergartens), government and private schools, Technical and Further Education (TAFE) providers and other vocational education and training (VET) providers, adult education providers and higher education institutions, including universities.

### 1.2.2 Obligations for reasonable adjustment

The Standards provide detail about an education provider's obligation to make reasonable adjustments to assist a student with disability to participate in education on the same basis as students without disability. There is no obligation to make an unreasonable adjustment.

Education providers must consult with students and their family members or carers about reasonable adjustments. They should also take into account the interests of all involved, such as staff and other students, and ensure the integrity of the course or education program and its assessment is maintained.

The Standards also clarify circumstances where an education provider is exempted from making a reasonable adjustment where it would impose an unjustifiable hardship on them. The exemption does not apply to addressing harassment and victimisation.

### 1.2.3 Making a complaint

If a person believes an education provider is not complying with the Standards, they have the right to make a complaint to the Australian Human Rights Commission (AHRC) about disability discrimination. The AHRC will try to resolve the situation through a conciliation process.

If the AHRC conciliation is unsuccessful, an aggrieved person may commence legal proceedings in the Federal Court of Australia or the Federal Circuit Court.

### 1.2.4 Requirement to review the Standards

The Standards specify that the Australian Government Minister for Education, in consultation with the Attorney-General, must conduct reviews of the Standards at intervals of not more than 5 years, to review *"the effectiveness of these Standards in achieving their objects, including a consideration of whether any amendments are desirable"*.

## 1.3 The 2010 and 2015 Reviews

The 2010 Review found the Standards were a good framework for promoting access and participation in education but there were issues identified that weakened the effectiveness of the Standards. The 2015 Review found while there had been significant improvement in accessibility and use of the Standards since 2010, further effort and support tools were required.

Broad themes identified in the 2015 Review of the Standards include:

- Awareness raising – more could be done to ensure that the Standards had a user focus, were promoted widely, were accessible to all and were well understood
- Clarity, understanding and capability – varying interpretation and application of terms such as ‘reasonable adjustment’ and ‘unjustifiable hardship’, and the need for greater support and guidance on best practice for educators
- Complaints – the complaints mechanisms for the Standards, including negotiation and arbitration processes can be inaccessible, time consuming and hard for students and their families and carers
- Accountability and compliance – reliance on complaints mechanisms to drive compliance with the Standards is ineffective and could be complemented with more proactive mechanisms.

Appendix A provides a summary of actions addressing 2015 Review recommendations.

The disability community has expressed the view that the 2010 and 2015 Reviews have not led to deep and systemic change in the education of people with disability. Despite significant national collaborative effort in the education sector, particularly around the implementation of the NCCD, many of the areas for improvement identified in 2010 and 2015 remain a focus in the 2020 Review (the Review).

## 1.4 Approach taken to the 2020 Review

### 1.4.1 Terms of reference for the 2020 Review

In considering the effectiveness of the Standards, the Review considered the following:

1. Are the rights, obligations and measures of compliance set out in the Standards (and its Guidance Notes) clear and appropriate?
2. Do students, families, educators, education providers and policy makers know about, understand, apply and comply with the rights, obligations and measures of compliance in the Standards?
3. In the 15 years since the Standards were developed, have the Standards contributed towards students with disability being able to access education and training opportunities on the same basis as students without disability?

Consultation for the Review included a focus on the impact of the Standards on the experiences of Aboriginal and Torres Strait Islander students with disability.

In formulating recommendations, the Review focused on opportunities for 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 ways in which reform directions are addressed across all education sectors varies, reflecting the different ways each sector operates.

## 1.4.2 Conduct of the Review

In February 2020, the Department of Education, Skills and Employment (the department) commenced the third review of the Standards. The Review occurred in 3 phases.

The first phase of the Review involved one-on-one consultations with approximately 20 national peak disability and education bodies from April to June 2020, as well as engagement with the Disability Discrimination Commissioner, Dr Ben Gauntlett. This initial consultation informed the Review terms of reference and the approach to public consultation during COVID-19 pandemic restrictions.

Peak bodies emphasised the importance of centring the lived experiences of the people whose lives are impacted by the Standards and, particularly, seeking out the voices of young people. Early consultation also highlighted the need to recognise sex, race, gender identity, cultural background and other 'intersectional' factors that can compound disadvantage and affect access to education for students with disability. There was a call for explicit consultation strategies to ensure the Review heard the voices of Aboriginal and Torres Strait Islander students, students from culturally and linguistically diverse (CALD) backgrounds, and students in regional and remote areas.

The second phase of the Review was the public consultation process that took place from 16 July to 25 September 2020. This was a largely online process centred around a Consultation Hub website. It was designed to be user-friendly and allow people the choice to engage in a range of ways. Participation options included webinars, focus groups, online discussion boards, questionnaires, one-on-one interviews and making a submission.

In order to hear directly from young people with disability, a Young People's Advisory Group was established. This group met twice: first, to discuss their experiences in education and, second, to discuss the findings from Review consultations. Discussions were facilitated by Dr Gauntlett.

Consultation activity included a focus on the experience of Aboriginal and Torres Strait Islander students with disability. Review consultations were designed to hear the voices of this cohort and their families directly. Questions about the experiences of this cohort were embedded in all consultation activities, the discussion papers and the questionnaire. Face-to-face community visits with students with disability, their parents, carers, families and educators were facilitated by locally engaged Aboriginal and Torres Strait Islander organisations. Their stories were important to provide the lived experience of families and children with disability from Aboriginal and Torres Strait Islander backgrounds.

Concurrent to public consultation, the Review team met individually with around 25 national agencies, regulators, and sector representatives. There was also specific consultation with peak bodies representing people with disability and with Indigenous Education Consultative Bodies.

States' and territories' key roles in the delivery of education meant their participation in the Review alongside the department was critical to an effective Review process and recommendations which are supported through national collaborative action. A reference group of state and territory officials across early childhood education and care, schooling, VET and higher education was formed to guide the Review process.

The department recognises the contributions which were received from a large number of organisations and individuals over the course of the Review. The department particularly thanks and acknowledges those students with disability and their families who shared their personal experiences as part of their contributions.

Further information on the Review methodology, including the approach to consultation, is provided at Appendix B and Appendix C.

The Review has also been informed by other important work underway including the Royal Commission into the Abuse, Neglect and Exploitation of People with Disability (Disability Royal Commission), and the development of a new 10-year National Disability Strategy.

## 2. Consultation perspectives and outcomes

This chapter of the report outlines what the Review heard from people and organisations through consultations and the related recommendations for action. The sections below explore different aspects of how people experience the education system for children and students with disability and the 4 resulting reform directions:

- Empowering and supporting students with disability and their families
- Strengthening the knowledge and capability of educators and providers
- Embedding accountability for the Standards throughout the education system
- Building awareness and capability in the early childhood education and care (ECEC) sector.

The term **educators** refers to all professionals whose work involves the delivery of education. This includes early childhood educators, primary and secondary school teachers, higher education staff including lecturers and tutors, and vocational educators and trainers, as well as other front-line education professionals such as teacher aides or assistants, specialist teachers, and educational psychologists.

**Providers** refers to the organisations that employ educators, including ECEC services, preschools and kindergartens, primary and secondary schools, universities and registered training organisations. It may also refer to organisations who operate several educational centres.

**Communities** refers to the communities around environments where education is delivered. This includes, for example, fellow students, their families, therapists, and related services such as school bus drivers and operators.

### 2.1 Empowering and supporting students with disability and their families

This section on system navigation is about how students, parents and carers find their pathway through the education system and how the Standards support this. Feedback received through consultations reveals that, too often, it is hard for a student with disability in Australia to access and fully participate in education and learning and there remain significant areas for improvement in achieving the objects of the Standards. Based on what the Review heard, there is a strong sense of frustration and exclusion among parents, carers and students.

While there were fewer positive stories heard through the Review, the common theme underpinning successful outcomes is the importance of proactive, supportive and early engagement by education providers, strong communication between providers and families, relationships built on respect, and the value placed on the individual student's ability and viewpoint.

#### 2.1.1 The onus is usually on students, parents and carers to advocate for their rights

Review contributors indicated the Standards are most often given effect through the advocacy efforts and determination of students and, even more so, their parents and carers, rather than a proactive offering by the education provider. As students with disability seek to access and participate in education, the Review heard the onus rests in practice on students, parents and carers

to understand the system and advocate for reasonable adjustments. Access to rights often hinges on the ability of students, parents and carers to advocate effectively.

Education institutions are often reactive in responding to the needs of students with disability. Participants argued that the onus should be on the educational institution to be accessible and not *“placing pressure on the student to fit into the existing system”* (Participant, tertiary education webinar). The experience of students and families is that often reasonable adjustments are provided only in response to a difficult situation or grievance, rather than proactively planned.

Parents and carers find it burdensome and difficult to advocate to schools for reasonable adjustments. Review participants reported that many schools are defensive and do not acknowledge that they are not complying with the Standards or providing the required support. Parents reported referencing the Standards only as a ‘last resort’ in a conflict situation.

Families described the exhaustion of having to constantly push for support and engagement:

“I am worn to the ground. I am a strong, middle class and educated person, but I am totally defeated by this system.” (Parent of secondary school students with intellectual disability, Inclusion Australia submission)

Where support is provided, students, parents and carers also noted they were often excluded from decisions being made about the student’s education, including planning and making reasonable adjustments. Many participants felt their knowledge and expertise is not valued, and they are treated as though they are interfering or do not properly understand their child or the situation.

In the tertiary sector (vocational education and training (VET) and higher education) the responsibility for advocating shifts from parents and carers to students, which can be particularly difficult if students struggle with paperwork, or they are in a position where parents or carers cannot legally intervene.

The Review heard that intersectional disadvantage can affect the experience of students with disability and their parents and carers. Intersectionality refers to the ways in which different aspects of a person’s identity can expose them to overlapping forms of discrimination and marginalisation. People who experience disadvantage in other ways have compounding challenges in making their way in the education system. For example, parents, carers and students who are not fluent English speakers may struggle to understand their rights and negotiate reasonable adjustments, or students living in a regional or remote area may have trouble accessing the support they need. The Review also heard that parents and carers may themselves have a disability that impacts their ability to advocate on behalf of their child.

The Review heard that many Aboriginal and Torres Strait Islander students with disability experience intersectional disadvantage. For example, in addition to a student experiencing discrimination due to their disability, they may also be discriminated against due to poverty, cultural background, or indigeneity:

“Double discrimination is often experienced by Aboriginal and Torres Strait Islander people; discrimination based on their disability and on their ethnicity and/or culture. A 2019 study found that 76.5% of respondents reported having experienced discrimination on the basis of their disability and, of the 3% of those surveyed who identified as Aboriginal and Torres Strait Islander people, 60% identified they were discriminated against on the basis of their ethnicity and/or culture.” (National Aboriginal Community Controlled Health Organisations submission)

The experiences of Aboriginal and Torres Strait Islander students with disability and their families are specifically considered at 2.1.4.

## 2.1.2 Transitions are particularly difficult for students to navigate

The Review heard that transitions can be very hard to navigate for students with disability within and between providers, sectors and jurisdictions, and even simply moving between year levels within a school. Students and their parents and carers often need to ‘start again’ with engaging the educator about their support needs in each new classroom or educational setting:

“Transitions can be micro activity shifts within a classroom, physical moves between classrooms or life stage shifts from year to year and within the school community. Poor support for children in transitions can put their entire educational journey at risk because the child’s reaction can be to lose control of their emotional state and suffer social shame before their peers. It is this emotional and social dimension of transitions that causes the greatest worry for parents and children because of the harm to identity development and the trauma that can be caused by the reaction of others to anxiety behaviours.”

(Developmental Disability WA submission)

Parents and carers report issues with communication and passing on of information among educators and learning support staff about disability and reasonable adjustments when students move schools, move classes within schools, or move up a year level. Transitions within compulsory schooling are often reliant on strong parent and carer advocacy making new teachers aware of the support needs of students.

When a student moves from schooling to VET or higher education, the advocacy role changes from parents and carers to the student, which can compound transitional issues. Further, people noted there was very little alignment between the school and tertiary sectors, many ‘gaps and barriers’ to transition and the need for greater collaboration and information sharing processes.

To address some of these gaps and barriers, the Review heard that strengthened relationships between education providers could make transitioning between the sectors easier. For example, transition to post school options could start earlier with visits to tertiary educational settings ahead of time and early trials of VET courses and environments.

Student transitions could also be supported through transfer of relevant information about a student’s disability between education providers. Current joint Commonwealth-state work underway by officials to look at improvements to the mechanism for transferring student schooling information interstate could be leveraged as an opportunity to transfer information about a student’s educational adjustments between schools, with a view to facilitating information flow between education sectors in the longer term.

## 2.1.3 People are reluctant to complain to an education provider

People expressed reluctance to speak up or make a complaint due to concerns of being seen as burdensome by the education provider, fear of ongoing unfavourable treatment or a belief that speaking up would cause further deterioration of the relationship, thus disadvantaging the student. The power imbalance between students, parents and carers and the educator or provider was frequently cited as a reason why successfully speaking up was hard, particularly for those facing intersectional disadvantage.

Parents, carers and students felt that issues raised with schools may be ignored, or that actions following complaints could be temporary. One parent expressed their experience this way:

“I am not a partner in my child’s education. The school withholds information from me because I make complaints about the things they have done. The school does not want to make any changes.” (Parent, parents and carers focus group)

The Review heard that it is harder for people from culturally and linguistically diverse (CALD) backgrounds and Aboriginal and Torres Strait Islander peoples to advocate for their rights and access complaints processes:

“Our school community has poor literacy and low levels of education in general, as well as a high proportion of families who speak English as an Additional Language. As a result, families often place total trust in the school and do not feel that they are able to advise the school on their child's needs or question what has been put in place. Many families also have generational learning difficulties and so parents may not be able to articulate or explain what they feel their child needs.” (Parent/carers, questionnaire)

Escalating the matter to a formal complaints system such as the Australian Human Rights Commission (AHRC) is even more resource intensive and intimidating for students and parents and carers given the cost involved, length of time to pursue a complaint and the need for advocacy or representation:

“Given the way I feel that courts have eroded the tests in the [DDA], the length of time involved, and the remedies ... I feel a very heavy heart about it because I think it’s very important to approach education from a rights-based perspective, but I do feel that as far as parents seeking to enforce the Standards and the Act, it is a very difficult road for anyone who does so.” (Peak body, peaks roundtable)

## 2.1.4 Aboriginal and Torres Strait Islander students with disability face additional challenges

The Review heard that in many Aboriginal and Torres Strait Islander cultures, there was no specific word to describe ‘disability’. This is supported in the literature on Aboriginal and Torres Strait Islander people with disability<sup>2</sup>. Aboriginal and Torres Strait Islander cultures are inclusive of all young people and tend to inherently adjust for differences. For cultural and historical reasons, many Aboriginal and Torres Strait Islander people with disability do not identify as being disabled or as a person with disability<sup>3</sup>. This could result in the families of young children being made aware of a single or multiple disability diagnosis for the first time when attending child care or another facility:

“Often we are the ones that broach the conversation of: we’ve noticed these traits or these are what we’ve observed, we’re not the specialists, we can’t make any diagnosis, but it might be good to refer your child to the speech

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<sup>2</sup> See, for example, Avery, S. (2018), *Culture is Inclusion: A narrative of Aboriginal and Torres Strait Islander people with disability*

<sup>3</sup> Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability: Interim Report (October 2020), p. 447

pathologist and to the occupational therapists and to the nurse and perhaps then down the track to a paediatrician.” (Educator, Aboriginal and Torres Strait Islander educators focus group)

A lack of trust of medical or education authorities can also contribute to late awareness of disability and of the additional supports that children with disability are entitled to, and may require, to be able to participate in educational services on the same basis as children without disability.

It was suggested that this puts children with disability behind their peers from the outset of their education journey, resulting in under-reporting and poorer long-term outcomes for these students:

“When I see something not working, I wish for more language and culture, it’s a white system, black kids can’t see themselves and kids with disability troubles, get lost, just sitting.” (Parent, face-to-face consultations)

The Review found that Aboriginal and Torres Strait Islander students, particularly those living in regional and remote locations, faced transport, logistical and cultural barriers to their access and participation. While transport services are not provided for under these Standards, it was clear that access to education was problematic for many and was essential to ensuring that Aboriginal and Torres Strait Islander students with disability attended school and other education services.

Participants and submissions raised concerns about the lack of access to a suitable education facility for some Aboriginal and Torres Strait Islander students with disability. This can lead to students being taken off country because there are no services set up to teach them:

“My son had to go and live in [a regional centre] leaving our family home in [a remote town] because at high school here he was watching Disney movies for babies and he is 15.” (Parent, face-to-face consultation)

In the higher education sector, one submission suggested that most universities do not provide specific support services for Aboriginal and Torres Strait Islander students with disability. Where support services or deliberate practices were put in place, including for transitions and assistance with mental health considerations, the Review heard that relationships with, and outcomes for, these students were significantly improved.

## 2.1.5 The COVID-19 pandemic significantly affected school students with disability

COVID-19 pandemic related input to the Review was heavily weighted to the schooling sector, suggesting that school students with disability and their parents and carers were most adversely affected by communities going into lockdown. Despite efforts from education providers, input to the Review indicated the COVID-19 pandemic amplified the daily challenges confronting students with disability to access and participate in education on the same basis as students without disability.

### **2.1.5.1 Isolation and lack of support were key themes**

A peak disability advocacy group, in the peaks webinar, noted that during the COVID-19 pandemic, when students with disability were unable to attend their educational institutions, they were more socially isolated from their classmates as a result of factors such as reductions in support staff, limited contact with education providers and peer exclusion.

The loss of routine and structure, previously provided by educational institutions, was keenly felt by many respondents. Students who had access to support workers (e.g. teacher aides) prior to the COVID-19 pandemic lost that close, skilled support. The impact on families was summed up in a

comment made on an educators online discussion board canvassing some of the challenges faced by many parents and carers during lockdown:

“They did not have the support at home like their child did at school. So a lot of them were juggling working from home, other siblings and trying to support their child with a disability to attend to their school work. In a lot of cases that just wasn’t working. Some did not have the know how to access, or have the technology at home to engage in, online learning.” (Educator, educators online discussion board)

A common theme was that feelings of disconnection were further compounded by insufficient communication between schools and parents and carers. Parents and carers often reported that they had limited contact with the school during the COVID-19 pandemic, despite requests for additional contact for their child. A number of barriers to contact were reported, including the school’s inability or unwillingness to use videoconferencing technology, such as Zoom (Parents and carers focus group).

Where a student with disability remained at home post lock-down (i.e. after other students returned to school), some parents and carers noted that the risk of isolation was exacerbated for them because of reduced information flow from the school and the COVID-19 pandemic safety restrictions on school grounds limiting their access to the school. This is consistent with information provided to the Disability Royal Commission, which also heard issues around the isolation of people with a disability during the COVID-19 pandemic, especially people with disabilities that affect communication. It also heard there was insufficient communication with people with disability.

Respondents observed that educators need to recognise and support students’ emotional and social interaction needs during major events. This includes ensuring that students with disability ‘feel comfortable and safe’ and that impacts to routine and structure are mitigated.

Mental health challenges have been exacerbated by the COVID-19 pandemic, particularly for people with disability, further compounding the risk of disconnection or isolation. The apparent lack of acknowledgement by some education providers of the unique and diverse needs of students with disability only served to increase the anxiety of those students and their families. Acknowledging and addressing the multiple traumas suffered by some families is important, as noted here:

“Students also need to be supported in coping with trauma if they have been directly impacted by an event like bushfire, floods, etc. Appropriate counselling or psychological support is critical ... A simple answer through COVID would have been to have students turn on their Zoom videos so they could see each other.” (Participant, schooling webinar)

#### ***2.1.5.2 The impact of disadvantage was exacerbated by the COVID-19 pandemic***

The education experiences of students with disability from low socioeconomic status (SES) families during the COVID-19 pandemic appear to have been compounded by several factors, including:

- Poor income security (casual employment, employment in areas hard hit by shutdowns)
- Inability to connect with appropriate support services
- Trust issues with authority
- Poor access to technology (both hardware and connectivity – further exacerbated for many rural and remote families), where a large family may have to share one computer
- Reliability of home equipment and access to skilled support services to resolve issues
- Language barriers amplified by an inability to access interpreter services in person.

One disability advocacy organisation noted that some students with disability from refugee backgrounds were left at home without support from school or access to services and parents and carers were not given enough support to implement the instructions sent home to them.

### **2.1.5.3 Some positive experiences were generated by the COVID-19 pandemic**

Some families, on the other hand, found the changed circumstances of the COVID-19 pandemic brought positive experiences for their children with disability, and expressed satisfaction with adjustments put in place during this time. For example, some experienced improved access to online learning platforms, and suggested greater use of technology and alternative learning arrangements should be made available permanently.

Some students benefited from the opportunity to engage in education in quieter environments and at their own pace. The move from the busy classroom environment of school, with all its noise and distraction, to the quiet, calming environment of home, provided a catalyst for improved mental health. One disability advocacy organisation observed that some schools worked well with families during the COVID-19 pandemic, sending out packs and games and even food packages for refugee families, in recognition of how difficult this period would be (Telephone interviews).

An organisation in the higher education sector suggested that the COVID-19 pandemic improved educators' awareness of barriers to remote learning and drove them to consider the needs of students with disability more seriously, including the application of reasonable adjustments.

In the ECEC sector, respondents listed a number of examples where preschools had responded to the challenge of staying connected to their children with disability during the COVID-19 pandemic. These included:

- Preschools running Zoom sessions regularly and sending out *"lots of activity packs"* (Participant, online discussion board for teachers and education support workers)
- Staff collaborating to write learning plans together to meet the needs of all children
- Provision of videos of staff reading stories, running online tutorials demonstrating how families could do activities together at home (such as playdough making)
- Practicing online learning with students before lockdown.

## **2.1.6 Better awareness and understanding of the Standards would help**

Students with disability and their families seek to know and understand their rights under the Standards so they can advocate for them. While stakeholders report general awareness of the Standards, a greater depth of knowledge would help to ensure students with disability are able to genuinely access and participate in education.

Families and students involved in the Review reported they had moderate knowledge of the Standards themselves, however they considered the general knowledge of the Standards by other parents and carers of students with disability to be very low. Participants noted this general low awareness may lead to misunderstanding of the rights and obligations within the Standards by students with disability and their parents and carers. This view was supported by separate surveys undertaken by several peak bodies. One student reported:

"I know they give me rights but don't know how I would work with the school to make sure that they are adhered to" (Young people focus group, Children and Young People with Disability Australia).

The Review found that the Standards were not well known or understood by Aboriginal and Torres Strait Islander students with disability and their families. This impacts on their ability to access their rights under the Standards.

#### **2.1.6.1 User-friendly, co-designed information is sought**

People felt that the Standards themselves were not well understood; being legislation, they are ‘dry’ and not user friendly. Further, concepts in the Standards such as ‘reasonable adjustments’, ‘unjustifiable hardship’, ‘on the same basis’, and ‘consultation’ are not sufficiently defined. People called for more practical examples of the types of support and adjustments that could be made available and greater clarity on the range of adjustments which could be provided. People called for information on the intersection of the Standards with services provided under the National Disability Insurance Scheme (NDIS) to address confusion about roles and responsibilities.

The development of targeted, accessible, visual and culturally appropriate information about the Standards, explaining individuals’ rights and the obligations of providers, was strongly supported. Students, parents and carers said they need supporting information about the Standards that is accessible and easy to read. These more accessible products could take many different forms:

- Easy Read, digital formats, large print, and Braille
- Translations of supporting information in community languages, including Indigenous languages
- For Aboriginal and Torres Strait Islander families, culturally appropriate material, which enables students to see themselves and their cultures represented and considers a range of formats such as video, Indigenous media (including, for example, the Koori Mail) and on social media platforms. Put by one educator, “*the Standards need to be explained with lots of visuals*” (Aboriginal and Torres Strait Islander educator interviews).

Participants emphasised that these information products must be co-designed with the groups they will target; people with disability, peak bodies, relevant cultural groups and advocates. The Australian Government notes the need to also consult and involve education authorities and providers in the development of these resources.

#### **2.1.6.2 Information about the Standards should be provided in a proactive, early and regular way**

Mandated provision of information about the Standards at the point of enrolment in any educational setting to all students and families would assist students with disability to be aware of, or reminded of, their rights. It would ensure general awareness for people that may later acquire or be diagnosed with a disability. Increased general levels of awareness may also help build an inclusive culture in the educational environment which supports students with disability engage in education. One parent reported:

“I had to go and seek [the Standards] out. No one hands them to you, I don’t see them in any school setting, if you do have an issue, it’s very hard to find out where you can make a complaint” (Parent/carer, parents and carers of students with intellectual disability focus group).

For students with disability and their parents and carers, information provided at the point of diagnosis of disability, potentially within health settings, would ensure early access to this relevant information. One young person suggested an ‘induction pack’ for people with disability would have helped them understand their rights when they were in school.

People with disability access services across various sectors where they could potentially receive information about the Standards. This was identified as a missed opportunity to provide more connected services to people with disability by considering their holistic needs. The intersection between the rights and obligations under the Standards and the services and entitlements under the NDIS was not well understood.

The Review heard that a more proactive and targeted approach to raising awareness of the Standards with Aboriginal and Torres Strait Islander people was needed including providing information through community based Aboriginal and Torres Strait Islander organisations, such as health organisations. The Review heard that Aboriginal and Torres Strait Islander students with disability and their parents and carers would rather engage with trusted Aboriginal and Torres Strait Islander organisations than specific non-Indigenous disability providers.

## 2.1.7 Better communication, consultation and issues resolution would help

### **2.1.7.1 Educators could do a better job of reaching out, genuinely, to students with disability and their families**

The Review heard overwhelmingly that the best results are achieved for students with disability when educators engage proactively with the Standards and initiate regular, authentic communication and consultation with students and families. As one participant commented:

“Our Preschool was phenomenal with consultation and support in an informal manner. My child was included and involved in all activities and was supported by a teacher to achieve this” (Parent/carer).

Students, parents and carers seek open, supportive education environments where information is offered upfront, options are provided, and students and families are involved in decisions about their education, including, but not limited to, reasonable adjustments.

The Review heard that there is an inherent power imbalance between education providers and students and their families which can negatively impact communication and consultation. Parents and carers commonly reported being excluded from conversations about the education of their children and being perceived as ‘interfering’ or ‘a nuisance’ and feeling ‘outside the equation looking in’. This can lead to communication with education providers becoming strained or confrontational, and relationships deteriorating over time. Respondents indicated that communication is often instigated by parents and carers rather than educators. This was reinforced by some students with disability who want educators to be much more proactive in their communication:

“I wish the teachers would reach out to me more rather than waiting for me to come to them which is embarrassing and confronting sometimes.”  
(Young person)

Where education providers’ engagement with the Standards is genuine, demonstrating real understanding, positive outcomes were reported by Review participants. Often this support and guidance was the result of a motivated individual educator. As one young person noted, *“It was the active effort on behalf of teachers that made me feel like I was cared about and not feel like I was a burden like we are often told we are. So I think it does come down to relationship building.”*

In other cases, the support and guidance were provided through a formal mechanism provided by the education institution. For example, the National Disability Coordination Officer (NDCO) Program assists people with disability to access and participate in tertiary education and subsequent

employment by working to reduce barriers, facilitate smooth transitions, build links and coordinate services between the education, training and employment sectors.

The desire for better provision of information was also raised by Review participants. Parents and carers expressed that it was difficult for them to assess a provider's capability to support their child because of the lack of publicly available information. Young people told the Review that they would like to hear from other students with disability about the support that they received from an institution, or a public website that ranks institutions based on how accessible they are and how they support students with disability.

#### ***2.1.7.2 Regular and meaningful consultation between educators and students and their families is critical***

The Standards include a requirement for education providers to consult on making reasonable adjustments. However, 'consultation' is not defined in the Standards and there are different approaches by providers. Many people wanted the concept of 'consultation' to be defined within the Standards, with consideration given to the role of third-party independent advocates, with guidance material provided to assist education providers to consult appropriately.

Review participants emphasised that strong consultation processes, including frequent and collaborative communication between providers and students and their families, were critical to students receiving effective personalised support and reasonable adjustments. Some suggested that the level of consultation in planning programs and adjustments for students with disability often falls short of what could be expected in the Standards. There were examples given of scenarios where a lack of consultation led to generic rather than individualised adjustments – a 'one size fits all' approach. Canberra Community Law Limited provided a case study where a young Aboriginal boy with autism was told he *"needed to wear nappies while at school, because the school lacks the toilet facilities"* despite being able to self-toilet. This request was attributed by the participant to educator assumptions that the child's needs were the same as other students with autism. One young person reiterated the reliance on a 'one size fits all' approach in the absence of consultation or attempts to understand a person's individual circumstances and customise supports based on that understanding:

*"One size fits all' won't do. They tried it in my primary school and high school, where you had teachers following and assisting even when you didn't need help."* (Young person)

Parents and carers reported that without consultation, many schools and tertiary providers can make poor adjustments. Participants shared experiences where individual learning and behavioural plans have been developed without consultation and sometimes incorrectly, resulting in them being of *"no use to the child"* (Parent, telephone interview).

#### ***2.1.7.3 Proactive engagement with young people benefits the entire education community***

Many participants raised the importance of students with disability being consulted and communicated with regularly about their needs and how they can best be supported in their education. Some reported that education providers are lacking processes to proactively and regularly work with and consult students. Discussions with young people suggested the need for educational institutions to proactively invite feedback from students with disability in order to 'give voice' to students on a regular basis. Anonymous feedback mechanisms such as surveys was a common suggestion:

“I think it is having internal measures, whether it is a survey, a forum, an anonymous feedback box, that the schools take on themselves and say, “Students, parents, families, community, tell us what we are doing right, tell us what we are doing wrong”, and then they are forced to read all those things and take action on them.” (Young person)

Other suggestions for offerings by education providers included annual workshops/webinars run by students with disability to enable them to speak about their experiences.

Effective communication was noted as particularly important for students from diverse backgrounds or with particular circumstances, and during disaster events. The Review heard that it can take additional time to build trusting relationships with CALD and Aboriginal and Torres Strait Islander people, and how important good communication is where English is not a student’s first language, to enhance collective understanding.

#### ***2.1.7.4 Early and effective resolution of issues is in everyone’s interest***

Input to the Review often suggested the need for independent third parties or advocates to help families navigate the system or to resolve issues between students, families and education providers. It was suggested that this would support timely resolutions and mitigate the escalation of parents’ concerns to formal complaint levels. In the schooling sector, Western Australia provides an advocacy service and other jurisdictions (Queensland and the Northern Territory) are trialling the funding of advocacy organisations that support students with disability and their parents and carers to navigate the system. A peak advocacy body for people with disability commented:

“Parents are often navigating complex arrangements in many cases for the first time and are unfamiliar with processes and procedures that are well known to educators.” (Developmental Disability WA submission)

Many participants reported experiencing difficulties in raising and resolving issues with their education provider. The Standards are silent on issue resolution processes prior to escalation to the AHRC.

Investment in consultation and early resolution of issues is important. It is generally recognised that if a student, parent or carer reaches the point where they seek to make a formal complaint, the relationship between them and the school or education provider has broken down. Further, the student is at risk of having already been excluded or disconnected from education.

#### **Recommendation 1**

That the Australian Government Minister for Education **develop information products on the Standards (“Know your rights”) for students, parents and carers** that are co-designed with people with disability. The products will be provided to relevant Australian Government agencies and states and territories to promote within their respective areas of responsibility and provide at relevant points in a student’s life.

#### **Recommendation 2**

That the Australian Government **amend the Standards to include principles on consultation, issues resolution and complaints handling processes.**

### Recommendation 3

That the Australian Government Minister for Education and the Australian Government Minister for Skills seek agreement from education and skills ministers to work together to **consider options to support student transitions by transferring relevant information about a student's disability between education providers**. Work should focus on student transitions within the school sector in the first instance, with a view to supporting transitions between education sectors.

## 2.2 Strengthening the knowledge and capability of educators and providers

This section is about the knowledge, skills and practice of educators and providers in supporting access and participation of students with disability in line with the Standards. The Review heard clear and consistent calls for reforms to strengthen the capability of educators and providers regarding the Standards and supporting students with disability. These calls came from students, parents, carers and educators themselves. There was also recognition that broader community attitudes and awareness impact the experiences of students with disability.

### 2.2.1 Educator capability and attitudes are central to student experience

#### ***2.2.1.1 Positive schooling experiences feature motivated individual educators***

The Review heard a wide range of experiences from students with disability and their parents and carers. When these stories are positive, they feature motivated educators who have a good understanding of their obligations as well as the knowledge and skills to implement them. Where the experiences are negative, they often feature educators who do not have a good understanding of the Standards, or lack the resources (including time, skills and knowledge) to implement them.

When people shared positive education experiences, they described educators who consult the student and their parents and carers meaningfully and regularly, establish and update individual learning plans (or equivalent), adjust curriculum and learning activities in deliberate and tailored ways to enhance student engagement and learning, proactively ask about student needs, and respond willingly to concerns and feedback. When educators do these things, students describe feeling included, engaged, supported, confident, empowered, happy, relieved and seen.

However, students emphasised that these positive experiences rely on the attitudes and capability of individual educators and education leaders. Parents and carers sometimes reported feeling ‘blessed’ or ‘privileged’ to have found positive learning environments for their children, and expressed an anxious awareness that the duration of this positive experience was vulnerable to a change of educator, or a change to the providers’ leadership (i.e. school principal):

“I currently have a good [Year 12] coordinator, the only person who has supported me with my disabilities during my education. It is awesome, but a shame I have not had anyone until now. If I didn't have him, I would have stopped going to school, that is pretty important. He goes above and beyond and does not do the bare minimum.” (Young person)

“At times the adjustments were excellent, otherwise not there at all. This is within the same school and seemed to be at the discretion of the teacher or principal (a new principal came in and things changed for the better -- previously adjustments were discouraged).” (Parent, questionnaire)

“Thankfully we’re in a much better place now... but... we know that our experience is only as good as a simple change in teacher and/or leadership.” (Parent, submission)

#### ***2.2.1.2 Tertiary students with disability rely on centralised support***

Educators in the higher education and VET sectors are drawn from a range of expert fields and industries and typically receive significantly less training in teaching practice than educators in other

education sectors. As such, they have less opportunity to formally develop pedagogical capability and understanding of students' diverse needs (see section 2.2.8).

Further, the structures and services to support students with disability in universities and large VET providers (such as TAFE) tend to be centralised with institutional disability officers or support units, which can lead to reduced expectations for educators to know and understand the Standards, and to obtain the skills and knowledge they need to implement them.

While such support services can be of great benefit to students with disability by providing dedicated support and enhancing the capacity of institutions to support them, all educators in all sectors need to be aware of their obligations under the Standards and have access to the knowledge and skills they need to fulfil them.

## 2.2.2 Educators need the capability to implement the Standards

On the whole, and across sectors, educators who participated in the Review demonstrated a desire to deliver positive learning experiences and described barriers they face in doing so. In addition, students and their parents and carers suggested what they would need from their educators to have more consistently positive learning experiences. Between them, they suggested that in order to fulfil their obligations under the Standards, educators need:

- To be aware of the Standards, or more specifically, to **understand their legislative obligations** under the Standards
- To have **access to information and expertise** which can assist them to develop adjustments to curriculum and learning activities which enhance the engagement and learning of students with disability
- To have a general **understanding of disability** and the way it impacts students' learning, opportunities, and life experience
- The **cultural capability and sensitivity** to teach Aboriginal and Torres Strait Islander students and students from CALD backgrounds in culturally appropriate ways
- An understanding of the important role they play as educators in **realising the human rights of their students**
- To be skilled in **student consultation and curriculum differentiation**
- To be **supported by their employers**, colleagues and institutions through the provision of resources, including time and knowledge.

### ***2.2.2.1 Many educators and providers have low awareness of their obligations under the Standards***

In the schooling sector, there has been significant reform in recent years to enhance teacher capability and promote awareness of the Standards among educators. The Nationally Consistent Collection of Data on School Students with Disability (NCCD), introduced in 2013, reinforces schools' existing obligations under the Standards by requiring schools to provide evidence that they have followed the processes laid out within them. This creates a routine touchpoint through which all schools must engage with the Standards, and justify their decision-making in accordance with it.

To support the NCCD, an online NCCD Portal was launched in 2019 to improve the quality of data available for education authorities and governments. The Portal is designed to support schools to deliver the annual NCCD, and it includes resources to support teachers to understand their obligations. It contains curated resources, interactive decision-making tools, case studies, illustrations of practice videos, infographics, podcasts, and accredited e-learning courses on the Standards. The NCCD Portal also includes resources for parents, guardians and carers to understand

their rights under the Standards. The resources were developed in collaboration with state and territory education departments, external consultants and experts, and educators, and are accompanied by a helpdesk service.

Despite this, the Review heard consistently that many educators and providers remain unaware of the Standards, or misunderstand their legal obligations to students. This was reported by students, their parents and carers, and also by educators themselves, who described the awareness and understanding of their colleagues as low:

“To be honest, it deeply saddens me that so few teachers/schools seem [aware] of their obligations under the standards. I have had many teachers quite openly tell me that they have never heard of the standards. I also work in schools where students are denied access to therapist support and instead are repeatedly suspended despite having a positive behaviour support plan which simply and clearly outlines how to avoid escalation. This is happening with students as young as 4 years old.” (Disability service provider/worker for a disability organisation, questionnaire)

“I was an Assistant Principal prior to becoming an Advocate and I did not know of the Disability Standards in Education [sic] then. I only became familiar when I began my organisation. Teachers, Leadership Teams, Parents do not know of this document.” (Disability advocate, questionnaire)

Furthermore, the Review heard that educators would sometimes not provide reasonable adjustments to students with disability because they believed that not treating all students equally would be unfair to students without disability. One participant stated that *“Educators feel that allowing these supports places those with a disability at an advantage over others”* (Participant, education professionals and academics discussion board). This suggests that the concept of equity (rather than equality), which is central to the operation of the Standards, may not be fully understood by educators in the context of their obligations.

#### **2.2.2.2 Educators and providers may not understand how to implement the Standards**

The Review heard that even when educators and providers are aware of the Standards, they often do not have a good understanding of them, or how to implement them. Where understanding of the Standards was low, families reported inappropriate or ‘tokenistic’ adjustments being made which did not enhance student learning or engagement. These adjustments sometimes served instead as *“box-ticking”* to demonstrate compliance, or a *“dumbing down”* of the curriculum which revealed low expectations:

“The ‘adjustments’ that have been made effectively prevent my son from accessing the curriculum and allows the gap to widen even further with his peers. i.e. extra time on the non-evidenced based [reading program] while the rest of the class does writing.” (Parent, questionnaire)

“Many staff are great at providing adjusted activities (and listening to advice and ideas) to include all students, but other staff think of adjustments and inclusion as an afterthought and leave the student with a disability to do an alternate activity, often separate to their peers. Staff often think that some curriculum areas will not be possible for students with a sensory disability, and that the students will not be capable.” (Educator, questionnaire)

### **2.2.2.3 Low expectations affect the support offered to students**

A culture of low expectations, especially of Aboriginal and Torres Strait Islander students with disability, was a feature of the Review consultations. This expectation often affected both the diagnosis and the support provided to these students, and in many cases, served to compound disadvantage:

“There is an overwhelming sense of low expectations, cloaked in language such as, ‘we focus on abilities’ and ‘everyone eventually finds what they are good at’, or ‘he will learn when he is ready’, rather than attempting to remediate difficulties. It is evident that the school would ‘tick the boxes’ in terms of compliance, however there is no demonstrable improved outcome for my son. For example a learning plan done in consultation with me, but it ignores my input and is then not actually used.” (Parent, questionnaire)

One Aboriginal and Torres Strait Islander principal emphasised that having high expectations and building authentic relationships is critical for the success of all students, but particularly important for students with disability, and even more so for Aboriginal and Torres Strait Islander students with disability. Work to change ideas of low expectations is strongly linked to improving the cultural capability of educators.

### **2.2.2.4 Educator cultural capability is essential to support Aboriginal and Torres Strait Islander students with disability**

Many families reported that educators and other staff do not have sufficient cultural knowledge and capability to adequately support or teach Aboriginal and Torres Strait Islander students with disability, and this was acknowledged and lamented by educators themselves. In particular, there was poor understanding by educators that Aboriginal and Torres Strait Islander people value the advice of their community when making choices and decisions about their children. In the consultation webinar for educators, a quarter of the responses highlighted the importance of collaboration with students and families, and of developing ongoing relationships with families and communities including extended family such as community aunties and uncles.

Many respondents suggested that some Aboriginal and Torres Strait Islander families strongly prefer to work with Aboriginal and Torres Strait Islander educators and organisations, as culture and language are essential when determining appropriate educational adjustments.

Some submissions noted the link between cultural awareness and the development of appropriate reasonable adjustments, observing that punitive measures were used with students who were not able to adequately engage in learning. For example, a student with Attention Deficit Hyperactivity Disorder (ADHD) being removed from class because of behavioural issues rather than having learning challenges associated with a disability acknowledged and addressed. It was noted that poor educational experiences can lead to students disengaging from education and increased risk of interactions with the juvenile justice system.

Educators also raised where their own low cultural awareness made them reluctant to take steps to provide adequate support to Aboriginal and Torres Strait Islander students for fear of getting things wrong.

The Review recognises the importance of cultural capability for Aboriginal and Torres Strait Islander students with disability and their families and communities. Going forward, policy makers working within the disability context should consider the cultural capability needs of this cohort and build them into their work. This includes, for example, when developing new material or revising existing

information to support Aboriginal and Torres Strait Islander students, creating new professional development programs for educators, revising relevant government program guidelines, or designing datasets.

The issue of cultural bias in diagnosis and assessment methods was also raised:

“A further matter requiring urgent attention is the need for adequate funding to research and develop culturally appropriate cognitive and other testing for Aboriginal and Torres Strait Islander children and young people. For example, experts have identified cultural bias in Wechsler testing scales. Researchers on this issue have called for the development of more appropriate assessments ‘based on the skills and abilities taught and valued’ in Aboriginal and Torres Strait Islander cultures.” (Queensland Law Society submission)

The Review also heard that intergenerational trauma results in a reluctance on the part of Aboriginal and Torres Strait Islander families to seek support from non-Indigenous practitioners, or to report health concerns to educators and health authorities. There was strong support for improving educators’ capability in trauma-informed practice, both to assist them to sensitively support Aboriginal and Torres Strait Islander students and families affected by intergenerational trauma, and students of all cultural backgrounds affected by trauma.

### 2.2.3 The COVID-19 pandemic highlighted the need for educators and providers to be better prepared to individualise learning for their students

The COVID-19 pandemic caused disruptions to education routines in all sectors and required providers to make decisions about how to proceed. The Review heard a widespread sentiment from parents and carers across all sectors that students with disability were an ‘afterthought’ in this decision-making, and that few adjustments were made to support them in the changed context. While there are documented instances of effective engagement and adjustment, the provision of such support was heavily reliant on the willingness, preparedness and resources of individual schools and educators.

In many cases, established individual learning plans (or equivalent) or reasonable adjustments were not well adapted and applied to the new learning environment:

“Many young people were not contacted by their schools at the beginning of the pandemic and there was a lack of suitable educational material provided.” (Melbourne University submission)

“Home schooling demonstrated that many students were not receiving adjustments at school, as no suitable material was provided to the parents to continue with.” (Code REaD submission)

Parents and carers of students with disability reported that they had difficulty communicating with their children’s schools as they sought to reinstate some semblance of the individualised learning, including adjustments, they had benefited from pre-lockdown. Comments from a focus group for parents and carers included:

“A lot of activities (received by email) were not suitable. The school was not interested in learning what alternative options are, which is a bit sad.” (Parent/carer, parents and carers focus group)

“During COVID the school put out one adjusted curriculum for the whole year level. Nothing was suitable for my son.” (Parent/carer, parents and carers focus group)

A peak disability advocacy body, which surveyed parents post lockdown, found that more than half of students surveyed did not have regular contact with their education provider or access to accessible learning materials during the COVID-19 pandemic (Children and Young People with Disability Australia submission). One parent reported that she made a number of adjustments herself and shared videos with teachers as examples. Another parent observed:

“During COVID we received classroom work but no adjustments. There was an explicit assumption that I would be able to make the adjustments for my kids, so the responsibility was passed on to me.” (Parent/carer, parent and carers focus group)

Organisations representing school leaders also noted that equity gaps were amplified by the COVID-19 pandemic:

“Educators struggled to keep students with disability safe, engaged and learning, noting that any success has been due to individual teacher initiative rather than an effective system response.” (Australian Government Primary Principals Association submission)

“[...] any success has been due to teacher innovation and agility rather than an effective system response. [...] Some schools lost a line-of-sight on student individual needs and wellbeing.” (Australian Special Education Principals Association)

A peak disability organisation noted that students with disability in mainstream education settings can be viewed as a burden, and high stress events such as the COVID-19 pandemic expose a systemic ‘ableism’ that contributes to a lack of preparation to support those students. For example:

“They are so busy dealing with the masses that our needs are a long way down the list. In times of crisis I have seen people’s true ableist beliefs surface. ‘She’s autistic so she’s not going to deal with the changes anyway’.” (Parent/carer, parents and carers online discussion board)

Consultations highlighted systemic challenges around educators’ and providers’ preparedness to support students with disability during the COVID-19 pandemic. For example, it was noted that:

- Some schools and teachers used resources that were not accessible to students with disability and not compliant with Web Content Accessibility Guidelines (WCAG)
- The NCCD Portal Helpdesk received a higher volume of queries from teachers about how to make reasonable adjustments in remote learning settings.

In the VET sector, the COVID-19 pandemic highlighted shortcomings in content accessibility and understanding of universal design within the online delivery model. This is particularly important for students with disability who rely on assistive technology. The Review also heard that assistive technology can be incompatible with online learning systems used by universities.

While the disruption caused by the COVID-19 pandemic was rare and unexpected due to the global scope of the COVID-19 pandemic, interruptions caused by natural disasters have not been rare in Australia. The obligations of education providers under the Standards remain the same in times of disaster or critical incident. Educators and providers need to be aware of this and have the capability

and preparedness to adapt learning activities so that they are accessible to all students, even in times of disaster or unexpected disruption to the delivery of education. Similar issues were also raised in the Disability Royal Commission, with the COVID-19 pandemic increasing the existing inequities experienced by people with disability. The Disability Royal Commission heard that people with disability were generally not specifically considered in emergency planning documents or policies, and that these were not responsive to their needs. Additionally, a lack of communication of information and a shift to inaccessible technology were issues for people with disability. The recent COVID-19 pandemic drew attention to areas which need to be strengthened by education providers when responding to these events.

## 2.2.4 Many educators do not know where to access resources to support specific disabilities

The Review heard that inappropriate reasonable adjustments are often the result of inadequate understanding by educators of the learning needs of their students and the nature of different disabilities. Students with disability expressed that they do not feel understood by educators:

“Other reasons have been due to teachers just really not understanding the situation I’m in and not understanding my disability, therefore they can’t respond appropriately to the situation.” (Young person)

“We need more education about disabilities in general in the education sector. This will bring more awareness to them, instead of having it stay as a taboo subject, something not to be spoken of, or a negative thing.” (Young person)

This was particularly evident in the case of students with ‘invisible’ disabilities, such as specific learning disabilities, mental health conditions, and the different presentations of autism and ADHD. These students frequently face difficulties obtaining reasonable adjustments for their disabilities because they are not seen to need them. Some participants felt there is an ongoing stigma attached to certain disabilities, especially those impacting behaviour, which prevents some educators from realising the need for adjustments to learning activities:

“I think it is also important to address the differences between physical and invisible disabilities, as a wheelchair user my schools could comprehend how it was a reasonable adjustment to allow me extra time to get from class to class however when it came to my invisible disabilities it was impossible to get reasonable adjustments.” (Young person)

“Invisible disabilities are completely ignored.” (Young person)

## 2.2.5 Educators who consult well create better learning experiences

As noted in section 2.1.7, reasonable adjustments are most effective when they are personalised in direct consultation with students through genuine communication and collaboration. Students and their parents and carers told the Review that educators often failed to consult effectively with them on the development of individual learning plans (or equivalent) and reasonable adjustments, at times resulting in their being of *“no use to the child”*:

“When making reasonable adjustments, schools and teachers should ask students directly about what would work best for them. No people with disability are the same, what might work for one person may not work for other person, can’t have one size fits all.” (Young person)

The Review heard that some providers and educators demonstrated a reluctance to consult with families altogether. Educators and parents and carers alike reported that communication between schools and parents and carers can become strained or confrontational over time:

“My daughter's disability is rarely considered. All the way through she has been expected to perform and cope as every other student her age despite having diagnosed disabilities. Any considerations she is afforded are up to her to access herself which is often unachievable due to her disability. Parental involvement is necessary and frequent yet this appears to be met with opposition.” (Parent/carers, questionnaire)

In one consultation activity, young people with disability observed that educators and providers can be daunted and afraid of what they do not know about disability and reasonable adjustments. This can undermine the consultation process and the partnerships that need to be established and maintained. The importance of open and transparent communication was emphasised, as was a willingness to ask questions and learn from students with disability and their families.

Under the Standards it is a requirement that education providers consult with students on the development of reasonable adjustments that ensure the student can enrol, access and participate in education. The Review heard a strong call for clarification over how this consultation should be conducted, and how often it should occur. There was also support for training which improves educator capability in consulting with students and their families and maintaining regular communication with them on student progress.

## 2.2.6 For students and educators in tertiary settings, barriers can play out differently

Participants, including educators themselves, reported that awareness of the Standards and educators' obligations was particularly limited in the tertiary sector, and some educators reported that they are unclear on how to implement the Standards within VET and higher education settings. In higher education there is no requirement for educators to undertake professional development, however in VET there is such a requirement. As seen in 2.2.1.2 educators in these sectors are generally less likely to have covered the Standards and working with students with disability in their pre-service training courses than school teachers, and are less likely to undertake professional development in relation to supporting students with disability (see Box 2 for more information). As dedicated disability support officers are often employed by universities and larger VET providers such as TAFEs, educators in these settings may feel less responsibility to engage with disability themselves, or that they lack the expertise to do so.

Tertiary educators noted that many courses have 'inherent requirements' which can make them inflexible. Tertiary providers feel they are *“sometimes hamstrung by external accreditation requirements stipulating participation expectations”* (Participant, Tertiary webinar), preventing them from making reasonable adjustments that would allow students with disability to demonstrate their competencies and learning. Some students reported that universities had not advised students of the inherent requirements (the fundamental parts of a course that must be met by all students), particularly of practical classes, until they were years into their degree. Many participants called for inherent requirements to be explicitly indicated and explained prior to enrolment so that prospective students can make an informed decision about VET and higher education courses. Some also called for consistency in inherent requirements across providers. Educators called for more clarity around how to handle the rigidity of these requirements, and possibilities for adjustments to practical

placements. The processes by which training packages and courses are developed and accredited in VET and higher education are explored in further detail in section 2.2.10.2.

In June 2020, the Australian Government asked the Equity in Higher Education Panel to develop a *Student Equity in Higher Education Roadmap*. The Roadmap will ensure that all students who have the desire and capability to study at university have the support they need to do so by setting the vision for equity in higher education in Australia, developing a prioritised plan for the higher education sector to support and develop higher education capacity to support students from under-represented backgrounds, and raising the profile of equity best practice in the sector to embed it more effectively in universities' missions.

The Roadmap is particularly focused on identifying and addressing the barriers and challenges that students from low SES backgrounds, regional and remote backgrounds, Aboriginal and Torres Strait Islander students and students with disability face in accessing, succeeding, and completing higher education, and transitioning into future pathways including employment or further study. Following broad consultation, the Panel is scheduled to release the Roadmap in August 2021.

There is an opportunity for the Panel to embed the Standards in higher education institution policies and practices across the student lifecycle (pre-access, access, participation, attainment, and transition out) at both an undergraduate and postgraduate level as part of its development of the Roadmap.

## 2.2.7 Readily accessible information needs to be available for educators to use

### ***2.2.7.1 There are opportunities for better sharing of information across sectors and jurisdictions***

To address gaps in educators' and providers' knowledge and capability, the Review heard strong support for better and more integrated sources of information, including training and exemplars, which educators can readily access. Although many organisations have created guidance material to support the implementation of the Standards, this information is often dispersed in various, disconnected locations, rather than located in one central repository that is known by educators to be a source of high-quality information. Educators report that this information is difficult to find or unavailable to them because there is no clear guidance on where trustworthy and useful information is located.

Conversations with states and territories, regulatory authorities and other organisations showed that there are a range of overlapping resources available across agencies, jurisdictions, and sectors. The risk is a piecemeal coverage of critical information, underutilisation of resources, and duplication of coverage with slightly varying interpretations of the Standards. An explanation for this could be that the Standards apply differently across sectors, and that jurisdictions identify different needs. However, the result is a confusing landscape which educators must navigate in order to find the information they need, adding unnecessary labour and delaying action. The NCCD Portal provides an example of a more comprehensive compilation of resources.

Additionally, participants raised concerns that information and good practice is not well shared between providers, sectors or jurisdictions, limiting the possibility for educators to learn from one another. The practical experience of other educators is a valuable resource, and better information sharing would improve knowledge across the profession.

### ***2.2.7.2 Providers call for clarification of key terms, and examples of how these terms were interpreted in formal conciliation processes***

As cited in 2.1.6.1, the Review heard that existing guidance material about the Standards is insufficient, particularly when explaining key concepts, such as ‘reasonable adjustment’ and ‘unjustifiable hardship’. One organisation said that this lack of clarity has occasionally led to conflict between parents and carers and schools, particularly around what constitutes a reasonable adjustment. The Review heard that in some cases, parents and carers have expected significant adjustments or support that a provider believes is unnecessary. For example, a parent, carer or student may request a full-time teacher aide as a reasonable adjustment, where an educator or provider believes alternative adjustments would be more effective. Participants shared their view that a wide range of interpretations were possible, and outcomes could depend on the education setting, the leadership of the institution, the knowledge of the educator or the resourcing available for supports. Providers called for a clearer range of illustrative examples, including precedents arising from actual complaints processes. They stated that these would better inform best practice and clarify the boundaries of their obligations.

### ***2.2.7.3 Educators and providers call for better practical examples of effective reasonable adjustments***

Educators and providers also expressed a desire for more technical information and guidance on how to develop effective reasonable adjustments and make appropriate modifications to curriculum. In particular, they called for case studies that go beyond ‘middle of the road’ examples, including a range of options that have been found to be effective in different settings and sectors. Educators expressed that the current support material including the exemplars of practice, developed by the Australian Government Department of Education and Training following the 2015 Review, do not help in marginal situations with no clear ‘correct’ approach, or where there is disagreement about what an appropriate or reasonable adjustment is. Further information and examples to use in these circumstances would give educators confidence to make decisions that align with the objects of the Standards.

### ***2.2.7.4 Educators need access to information on specific disabilities***

Educators also called for access to better information on specific disabilities, including invisible disabilities, mental health conditions, the impact of trauma, and how particular adjustments can enhance learning for students. Participants in the Review acknowledged that it is unreasonable to expect educators to have the knowledge and skills of medical professionals. However, in order to develop appropriate reasonable adjustments, individual learning plans (or equivalent) and behaviour management strategies, educators need easy access to further information on specific disabilities to understand the needs of their students. The absence of this information was perceived as an impediment to appropriately supporting students with disability.

Participants in the tertiary sector noted that most available resources are focused on schools and identified a need for resources covering the application of the Standards in the context of VET and higher education. They noted a need for clarification of providers’ obligations and options with regards to practical placements, which are often requirements of tertiary courses.

## **2.2.8 There was a near universal call to strengthen training for educators**

Improved training for educators was a strong theme throughout consultations in all sectors, with calls made for more targeted pre-service training on the Standards and their implementation, as well as for regular, ongoing and mandated professional development for all staff. This was supported by

students and their families, organisations, and educators, who reported that they do not feel equipped with adequate training or information to understand the diverse needs of students with disability and implement adjustments to improve their learning experience:

“Students can’t feel comfortable and shine where the staff isn’t trained and resourced to support them to be who they can be.” (Parent/carer, parents/carers of students with autism & ADHD focus group)

### **2.2.8.1 Pre-service qualifications**

The Review heard that current educator qualifications do not sufficiently equip prospective educators with the skills or knowledge they need, with many educators reporting they want clearer guidance and opportunities to practice the design and implementation of evidence-based adjustments. Requirements for pre-service training and accreditation of educators vary between sectors and across jurisdictions. As part of their qualification, pre-service early childhood, primary and secondary school teachers are required to demonstrate knowledge and understanding of legislative requirements and teaching strategies that support the participation and learning of students with disability. However, there is no such requirement for pre-service educators in VET or higher education sectors (see Box 1).

Opportunities exist to strengthen pre-service training requirements in all sectors, so that all educators are aware of their obligations under the Standards, and where they can access information to help them to fulfil these obligations.

#### **Box 1: Qualification and accreditation requirements for pre-service educators by sector**

In the **early childhood education and care sector**, there is a distinction between teachers and educators. **Early childhood teachers** must complete an initial teacher education course, and in 4 of the 8 jurisdictions must be registered according to the same requirements as school teachers (see below). Registration is not a requirement for early childhood teachers under the National Quality Framework (NQF), but it is a requirement under some state and territory legislation.

**Early childhood educators** must complete a VET qualification (Diploma or Certificate III) approved by the Australian Children’s Education and Care Quality Authority (ACECQA). There are also some state and territory specific qualification requirements for working with school age children (e.g. in outside school hours care services). The Diploma of Early Childhood Education and Care includes a core unit on implementing strategies for the inclusion of all children. In the Certificate III qualification, basic introductory level coverage is spread across a number of different units. National vocational qualifications are currently under review, and new qualifications are due to be released in 2021.

In the **schooling sector**, initial teacher education programs are accredited by state and territory regulatory authorities in line with the nationally agreed *Accreditation of Initial Teacher Education Programs in Australia: Standards and Procedures*. The Accreditation Standards set high level requirements and work to ensure all initial teacher education graduates meet the requirements of the Graduate career stage of the *Australian Professional Standards for Teachers* (Teacher Standards). The Teacher Standards apply nationally and underpin teacher registration processes in all jurisdictions. They articulate what teachers are expected to know and be able to do at 4 career stages: Graduate, Proficient, Highly Accomplished and Lead. Importantly, teachers at the Graduate level of the Teacher Standards must be able to practice and demonstrate:

- “knowledge and understanding of strategies for differentiating teaching to meet the specific learning needs of students across the full range of abilities.” (Standard 1.5)

- “*broad knowledge and understanding of legislative requirements and teaching strategies that support participation and learning of students with disability.*” (Standard 1.6)

The Australian Institute of Teaching and School Leadership (AITSL) has also developed the *Australian Professional Standard for Principals* which sets out the principal’s role in engaging and working with the community, embracing inclusion and supporting the needs of students, families and carers facing complex challenges.

Educators in **VET** require a Certificate IV in Training and Assessment or a diploma or higher education degree in Adult Education. Two elective units on teaching students with disability were introduced in November 2019. It is unclear how high the take-up of these units has been. The Certificate IV in Training and Assessment includes the elective *Plan and implement individual support plans for learners with disability*. An additional elective, *Develop and implement accessible training and assessment plans for learners with disability*, is included in the Diploma of Vocational Education and Training, and the Diploma of Training Design and Development.

In **higher education**, educators are required to have skills in contemporary teaching, learning and assessment, although there is not a specific teaching qualification requirement set. The *Higher Education Standards Framework 2015* requires that teaching practices and approaches to learning must be designed to accommodate student diversity, including under-represented or disadvantaged students. The *Higher Education Standards Framework* also require that participation, progress, and completion by identified student subgroups are monitored and the findings are used to inform improvement of teaching, learning and support strategies.

### **2.2.8.2 Ongoing training – professional development**

Improving pre-service training for educators across all sectors would go some way to improving the knowledge and understanding of those entering the field. However, this only encompasses a small portion of the total workforce. As most educators are already in service, the Review heard strong support for regular, mandated professional development to equip these educators with the knowledge and skills they need to fulfil their obligations under the Standards, and to continually refresh and extend their capability. Educators are generally not currently required to undertake professional development which covers the Standards or strategies for working with students with disability, or this is not a priority area where professional development is mandated. Mandated and regular training linked to the initial and ongoing registration of educators would provide an opportunity to improve their capability and understanding (see Box 2).

#### **Box 2: Professional development requirements for educators by sector**

Requirements for professional development vary between sectors and jurisdictions. Educators in **schools** are required to undertake a minimum amount of professional development (on average 20 hours per year) in accordance with state and territory legislation and regulation requirements. Although teachers wishing to progress through AITSL’s ‘career stages’ must demonstrate their knowledge and understanding of legislative requirements and teaching strategies for supporting students with disability, the Australian Government is not aware of any states and territories currently requiring that teachers undertake professional learning in this area.

In **early childhood education and care** early childhood teachers are required to be registered in New South Wales, Victoria, South Australia and Western Australia. Registration is not a requirement in the other jurisdictions, but may be a condition of employment. Early childhood teachers who are registered are subject to the same professional development requirements as primary and secondary school teachers in their jurisdictions. For certificate- or diploma-qualified early childhood educators,

there are no regulatory requirements to undertake professional development. The National Quality Framework (NQF) sets the benchmark for developing staff and leadership within services, with an expectation that services assessed and rated as Meeting National Quality Standard have evidence of enabling professional development activities for educators and other staff to update their knowledge and skills.

In **VET**, registered training organisations are required to ensure their staff undertake some professional development (Standard 1.16 of the *Standards for Registered Training Organisations 2015*) however the amount and frequency is not specified, and there is no requirement for this training to address the Standards or the needs of students with disability.

In **higher education** there are no specific requirements for educators to undertake particular professional development, however, educators must have knowledge of contemporary developments in the discipline they are teaching in, informed by continuing scholarship or research. The *Higher Education Standards Framework* also require that there are mechanisms for teachers to receive feedback on their teaching, including from students, along with broader monitoring and review of student progress and the quality of teaching and learning.

### **2.2.8.3 Not all educators understand the connection between their work and a student's human rights**

Many contributors to the Review suggested that educator training about the Standards should be grounded in a human rights framework, incorporating learning on the legislative context of the Standards and concepts of equity, disadvantage and intersectionality. This could include knowledge of the social model of disability and Australia's commitment to the United Nations Convention on the Rights of Persons with Disabilities (UN CRPD). Educators, students and families felt that explicit linkages between the Standards and human rights would help to shift the emphasis of the Standards onto the positives for all students that come from inclusive environments. It was suggested that a focus on human rights, rather than compliance, may elicit greater buy-in from educators and the broader education community:

"I think inclusion starts with mindsets, and the DSE [the Standards] is comprehensive although open to interpretation. When schools are willing to instigate inclusion, they will find ways to do the right thing, with the DSE as guidelines to help. But if schools are not pro inclusion, especially for those with high and complex needs, guidelines are only used as justification for exclusionary practices." (Young person)

### **2.2.9 Whole-of-institution awareness supports cultural change**

Educators repeatedly emphasised that in addition to the right knowledge and training, their ability to deliver quality education for students with disability depends on support from their employers, colleagues and the communities they work in. The Review frequently heard the importance of 'whole-of-institution' awareness, extending to all staff, students without disability, and their families. Throughout consultations, participants from all sectors emphasised that a holistic organisational approach to inclusivity and supporting students is required. Participants testify that this improves institutional cultures and community attitudes towards students with disability, creates space for educators to prioritise reasonable adjustments, and increases accountability.

Many of the examples that the Review heard of positive educational environments incorporated a considerable degree of whole-of-institution awareness:

“If I could change one thing, I would make disability education compulsory for teachers, staff and students as a part of the curriculum.” (Young person)

“It's up to the school to interpret what is reasonable adjustment and it depends very much on the mindsets of the staff whether they understand what students' needs are and think laterally outside the box to create the environment for these students to learn alongside their peers with some allowance for differences.” (Young person)

#### ***2.2.9.1 Educators need employer and community support to implement the Standards well***

Educators who are passionate about inclusion also reported facing difficulties finding time to consult with students, parents and carers, develop individual learning plans (or equivalent), research and implement reasonable adjustments, participate in additional training, and share knowledge between colleagues. Educators told the Review that they can face challenges implementing their obligations under the Standards if the provider does not provide the resources to do so. Parents, carers and students also acknowledged this:

“With regard to the rights of students with disability, the problem is with school personnel who don't value inclusivity.” (Young person)

“I'm never given time to actually connect with the students and parent/s enough to understand the student's abilities and needs. I'm left guessing what to do and flying by the seat of my pants.” (Educator, educators webinar)

“I've tried to invite teachers to specific training about my children to be told they don't have the resources to replace them.” (Parent, parents and carers of students with autism and ADHD)

“I have trouble working in the afternoons because the school calls me with regularity to come pick [my child] up, and I just think that's one of the consequences of trying to make it work in a mainstream school when they don't have enough resourcing to have that one-on-one or even three-on-one from the school support officer.” (Parent, parents and carers of students with autism and ADHD)

Participants from all groups suggested that where education providers promote better whole-of-institution awareness, they are more likely to prioritise and allocate resources (including staff time) to ensuring the needs of students with disability are met.

#### ***2.2.9.2 Support staff also play a significant role in developing culture, and need to understand the Standards***

Specific examples of the benefits of whole-of-institution awareness were noted. For example, participants felt that better awareness of the Standards by front office staff, and all staff involved in the enrolment process, would help to prevent gatekeeping (commonly described as controlling access to goods or services, such as preventing a potential student's enrolment) by making clear the legal obligations of providers to facilitate access for students with disability.

One respondent commented:

“The preschool my older child enrolled in was very vague about my son's proposed enrolment – “maybe”, “we don't know if we can cater for him”, and made me feel unwelcome bringing him along to family/community events while his sister was enrolled. As opposed to active discrimination, their coldness achieved its desired aim: we did not pursue the enrolment. Our local public school in NSW has been pleasant and professional and clearly showed an awareness of the standards.” (Parent/carer, questionnaire)

Participants also reported that education institutions with better awareness are more likely to have a good preventative policy in place and to take action against harassment and victimisation of students with disability. While not all staff in education providers require the same depth of knowledge as educators themselves, given the important role that support, administrative staff and teacher aides play, training for all staff could have a significant impact on compliance with the Standards and institutional culture. The short e-learning courses already available on the NCCD Portal could provide a template for the development of such training.

### ***2.2.9.3 Education leaders, such as school principals, have the biggest influence on the culture in education providers***

Awareness, understanding and genuine engagement with the Standards is particularly important for education leaders, as they set the culture within institutions and determine the degree to which adjustments are prioritised and resourced. At the school level, parents and carers of children who had changed schools noted that the most positive learning outcomes were associated with an inclusive leadership team, especially the principal:

“It has been my experience that Principals are not always familiar with the Standards, often reluctant to explain or uninformed about the enrolment process - encouraging students to attend a [school for specific purposes] when, with adjustments and modifications, the student with a disability could attend the local primary school.” (Teacher/educator, questionnaire)

“It also does also come down to the training/experience and teaching style of the individual teacher. We have also found that lots of teachers are fantastic, but bound by the constraints /rules/regulations/ general culture of the broader school environment and the staff in leadership positions.” (Parent/carer, questionnaire)

The Disability Royal Commission heard about the importance of school principals, particularly in relation to the increased decision-making autonomy that has come with the increasing devolution of authority to the school level in recent years. The Disability Royal Commission heard that there were advantages to this, with one principal stating that *“As principal, I have the autonomy and the moral imperative to address every student succeeding with every opportunity that I am given. Within the constraints of my resourcing constructs, I have the ability to manipulate and manoeuvre, be flexible and use my resourcing to target the areas best needed on a day-to-day basis”* (Disability Royal Commission public hearing – 6 November 2019, Judith Fenoglio, Principal – Ingham State High School). However, this increases the need for principals to have a close understanding of their obligations under the Standards, as well as the impact that they can have on the lives of students with disability and their families. Principals have the authority to make decisions about who they enrol in their school, and as such their knowledge of the Standards is critical to reduce and eliminate

gatekeeping practices. Principals need to understand clearly what their responsibilities are regarding enrolment, ensuring students' participation, and providing reasonable adjustments.

In contrast, a researcher in inclusion and disability in education told the Disability Royal Commission that this discretionary power provided to schools and principals often leads to unevenness in practice and that principals *"have considerable autonomy and discretion in how they allocate funds, and the adjustments and interventions that they choose to implement, or even whether to implement at all"* (Disability Royal Commission public hearing – 14 October 2020, Dr Kate de Bruin). This unevenness points to confusion around the obligations of schools with regards to funding support for students with disability, and where this funding should come from.

#### **2.2.9.4 Providers and families are confused by funding sources, and providers are limited by the funding they receive**

Educators and providers frequently raised funding as a limitation on their ability to provide reasonable adjustments. Many educators stated that they did not have sufficient funding to support their students, and this view was particularly common in the schooling sector.

In the schooling sector, both the Commonwealth government and state and territory governments contribute to the cost of education. Commonwealth funding relies on a needs-based funding model which uses the Schooling Resource Standard (SRS) to calculate loadings. The SRS is an estimate of how much total public funding a school needs to meet the educational needs of its students. It is made up of a base amount for every primary and secondary student, along with 6 loadings, including for students with disability. The disability loading of the SRS is calculated on information collected under the NCCD, which has a definition of disability based on the DDA and the Standards. Importantly, this means that a student does not need to have a diagnosed disability to be recognised under the NCCD. The total pooled amount of Commonwealth recurrent funding is provided to approved authorities (the organisation responsible for the school). Approved authorities can either operate as stand-alone with single or a small number of independent schools, or as a group of schools that operate collectively under a single organisation, referred to as systems. School systems approved by the Commonwealth have the flexibility to distribute funds according to their own needs-based arrangements that meet requirements under the legislation. This means the funding amount schools in systems receive may differ from what is allocated through the Commonwealth funding model.

Parents and carers told the Review that some schools referred to their children as having an 'unfunded' disability because of the school system's funding arrangements, which contribute to instances of gatekeeping or reasonable adjustments not being provided. The Review heard that these different funding models can cause confusion, and it was not always clear how or why a student does, or does not, receive funding. Parents and carers reported that there was no clear visibility of how the additional funding that their child receives is directly related to the support their child received, and there was a feeling that additional funding for students with disability was consolidated into a school's general revenue and also funded general school activities. These issues were also raised as part of the Disability Royal Commission, and are consistent to the issues raised in section 2.2.9.3 relating to principal autonomy:

"Leadership at the school I am working at fail to prioritise the training needed for teachers to adequately provide for students with disability. They still operate on old models where students with severe disability are educated separately in a specialised program, and students with mild disabilities are left to 'drown' in the classroom. NCCD funding and Support Teacher allocation is

pooled into 'general' funds and teaching allocations and there seems to be no accountability. I have tremendous concerns and am currently on stress leave from the bullying I received in trying to advocate for these students.”  
(Educator, questionnaire)

In addition, participants told the Review that there is significant confusion about whether the NDIS or the education provider is responsible for funding supports and adjustments. This confusion extends to the providers themselves, with parents and carers reporting that the education and NDIS providers often claim that the other is responsible for the support. In general, the NDIS is *“responsible for supports that a student requires that are associated with the functional impact of the student’s disability on their activities of daily living (that is, those not primarily relating to education or training attainment)”*.<sup>4</sup> Despite this guidance, and other resources that have been made available, there continues to be confusion.

## 2.2.10 Whole of system integration embeds a culture of inclusion

### **2.2.10.1 Resources, curriculum and platforms are not always accessible**

Some participants told the Review that learning materials they were provided by educators were not accessible, and that students and their parents and carers were required to convert them into accessible formats. This was particularly the case for students who are blind or have low vision, where resources were not provided in alternative formats (such as large print, Braille, or audio) or where changes were not made to allow students’ independent navigation of physical environments:

“My son isn’t allowed to access the playground at lunchtime as the school have deemed it is not safe for him.” (Vision Australia submission)

Across all education sectors, participants raised the need for design to be accessible and non-discriminatory. Participants noted that better integration of accessibility principles into education policies and frameworks would prevent much of the need for educators to research and develop labour-intensive reasonable adjustments. To this end, there was a strong call for accessibility to be embedded into policies, guidelines, resources, materials, physical environments and curriculum.

Many peak bodies pointed to the ‘transformative potential’ of universal design for learning (UDL) principles for improving the accessibility of curriculum and learning materials. Curriculum developed in accordance with UDL principles is designed for differentiation, with the in-built flexibility to be used by students in multiple ways according to their needs and abilities. Starting from a default of accessibility and universal design, rather than ‘retrofitting’ accessibility to materials as required, has the potential to more effectively facilitate the development of reasonable adjustments by educators. As one participant in the Schooling webinar noted, the result of this would be *“accessibility not being an afterthought”*. The integration of UDL and other accessibility principles would require the collaboration of many stakeholders, including governments, providers, regulators, and curriculum and assessment authorities.

Digital resources were identified as a particular point of concern, and this was highlighted during the COVID-19 pandemic as learning shifted to virtual spaces. For example, peak bodies reported that online platforms used by universities are often not compatible with screen readers and voice navigation technology. Participants noted that the Web Content Accessibility Guidelines (WCAG) did not exist when the Standards were introduced, but have since become essential knowledge for

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<sup>4</sup> National Disability Insurance Scheme (Supports for Participants) Rules 2013, rule 7.13

people who develop learning resources. They made the case that these guidelines should be used as the basis for all current and future digital resources, to ensure that they are accessible to all students. There was a call for guidance material to assist education providers with the development and selection of resources, and to assist publishing companies and resource developers with ensuring their resources are accessible.

#### **2.2.10.2 Tertiary education programs and courses are seen as inflexible**

As noted in section 2.2.6, many qualifications in the tertiary sector are developed to meet the accreditation requirements of the industries and professions they prepare students to work in. As such, the development of non-discriminatory curriculum in VET and higher education involves a complex landscape of stakeholders including Industry Reference Committees and professional accreditation bodies. Participants from these sectors raised concerns around limitations to accessibility imposed by the demonstration of competencies, including in relation to work placements. Many participants felt that curriculum in the tertiary education sector was too inflexible, and that the 'inherent requirements' of courses were inadvertently discriminating against students with a disability.

One peak body reported that a student was told that they could not enrol in a course of study, as they would not be employed because of their disability: *"The Head of the school said I shouldn't waste my time doing the course, as no-one would hire a person with a vision impairment"* (Blind Citizens Australia submission). Other students said that educators could not, or were unwilling to, make reasonable adjustments to enable their successful completion of work placements, and that the requirement to demonstrate competencies were being narrowly interpreted.

The Review heard that students with disability were not able to demonstrate their understanding and ability in alternative ways because educators had a literal interpretation of the requirements. Similarly, the Review heard from educators that while many of them understand students have the right to reasonable adjustments, they are unclear on how to implement these within the VET sector. Some participants commented that reasonable adjustments were not made to entrance requirements for some courses, such as exams for medical degrees, making these courses inaccessible to some students with disability. Participants called for inherent requirements to be explicitly indicated and explained to prospective students prior to enrolment, and some called for consistency in inherent requirements across providers. Additionally, participants considered that inherent requirements should be accompanied by a strong justification.

Box 3 details the processes by which VET and higher education courses are accredited. In VET, an Industry Reference Committee made up of representatives of industry submits proposed training packages to the Australian Industry and Skills Committee. In higher education, providers work with professional accreditation bodies to ensure their courses meet the requirements of professions. In some health professions this process is regulated by government to ensure safety.

While the Standards apply to professional accreditation bodies and the Industry Reference Committee through the delivery of their accreditation functions (Standard 1.5, (g) (iii)), neither process systematically calls for these groups to consider the Standards in the development of courses. As such, these organisations may have poor visibility of their obligations (and those of education providers), the needs and rights of students with disability, and of the possibilities for more accessible requirements which still serve their purpose of ensuring quality.

### Box 3: Accreditation of courses in the tertiary sector

Most nationally recognised VET qualifications consist of units of competency developed through a process of national consultation with industry and set out in Training Packages. Training Packages must be submitted to the Australian Industry and Skills Committee (AISC). AISC then recommends national training package products to skills ministers for endorsement. As part of this process, a Quality Report is prepared by a member of the independent Quality Assurance Panel, which provides an assessment of whether or not the proposed training package components meet the requirements set out in the Standards for Training Packages 2012, the Training Package Products Policy and the Training Package Development and Endorsement Process Policy. The Training Package Products Policy stipulates that:

- Training Package developers must meet their obligations under Commonwealth anti-discrimination legislation and associated standards and regulations
- Training Package developers must ensure that Training Packages are flexible and that they provide guidance and recommendations to enable reasonable adjustments in implementation.

Skills Service Organisations (SSOs) are independent, professional service organisations that support Industry Reference Committees in their work developing and reviewing training packages. Prior to commissioning a Quality Report for Training Package components under development, SSOs must have an Equity Report completed by either:

- A member of the Quality Assurance Panel with expertise in the learning needs of disadvantaged groups, or
- An independent SSO-specified person with such expertise.

This Equity Report Template does not specifically mention disability or name the Standards, instead referencing Commonwealth anti-discrimination legislation and associated standards and regulations. Additionally, there is no specific reference to an obligation being placed on the person preparing the Equity Report to assess Training Package components against the Standards.

VET is also delivered through accredited courses. These complement training package qualifications by ensuring training courses can be developed quickly and by supporting niche skills needs. VET accredited courses are regulated against the *Standards for VET Accredited Courses 2012* and approved by the VET Regulators.

Note: The Heads of Agreement for Skills Reform, signed by all Australian governments in July 2020, outlines immediate reforms to strengthen Australia's training system to support Australia's economic recovery. This includes reforms to simplify, rationalise and streamline national VET qualifications across industry occupation clusters and the Australian Qualifications Framework (AQF), and introduce improved industry engagement arrangements.

In **higher education**, professional accreditation of university courses of study is intended to ensure that a course of study meets essential criteria in the training and education of its students in the relevant professional discipline, and that graduates from that discipline achieve the professional competencies and learning outcomes necessary for entry into the relevant level of professional practice.

Professional accreditation can be either regulated or non-regulated. Government, through the Australian Health Practitioner Regulation Agency, regulates some health professions where it seeks to assure public safety, and designates specific professional bodies to accredit courses. In unregulated professions, professional associations may establish an accreditation function as part of their wider professional services and operations. Where professional accreditation of a course of

study is required for graduates to be eligible to practise, the course of study is accredited and continues to be accredited by the relevant professional body.

Academic accreditation refers to the evaluation of a course of study (either by the Tertiary Education Quality and Standards Agency (TEQSA) or by a self-accrediting provider such as a University) against course requirements specified in the Higher Education Standards Framework (HESF) and the Australian Qualifications Framework (AQF). The HESF includes specific standards and requirements for academic governance, course design and delivery, staffing, facilities and infrastructure, learning resources and educational support and, in particular, require that staffing and resourcing for courses are sufficient to ensure that students achieve course learning outcomes. The AQF mandates the learning outcomes for each level of study, which includes the depth of knowledge and the level of application of that knowledge, that a graduate should possess.

#### Recommendation 4

That the Australian Government Minister for Education, in consultation with people with disability:

- **Review and expand the current Exemplars of Practice** available on the Australian Government Department of Education, Skills and Employment website
- **Develop information (“Know your responsibilities”) for education providers** and bodies involved in the development and accreditation of curriculum.

The products will be provided to relevant Australian Government agencies and states and territories to promote within their area of responsibility to ensure all staff understand their obligations.

#### Recommendation 5

That the Australian Government Minister for Education write to education ministers (or school education authorities where relevant) encouraging them to:

- **Ensure all school teachers and leaders have appropriate training on the Standards and supporting students with disability** with consideration given to how this training relates to teacher registration processes. States and territories may also wish to consider a nationally consistent approach.
- **Ensure induction processes for graduate teachers in both government and non-government schools** provide an appropriate focus on the Standards and supporting students with disability.

#### Recommendation 6

That the Australian Government Minister for Education ask the Department of Education, Skills and Employment Equity in Higher Education Panel to examine ways to **embed the Standards in higher education institution policies and practices across the student lifecycle (pre-access, access, participation, attainment, and transition out) at both an undergraduate and postgraduate level, as well as in workforce capability policies**, as part of its development of the *Student Equity in Higher Education Roadmap*.

## 2.3 Embedding accountability for the Standards throughout the education system

This section focuses on how the education system holds itself accountable for implementing the Standards. As outlined in earlier sections, calls for greater accountability for the implementation of the Standards was a common theme heard by the Review. Students, parents, carers and peak bodies expressed their concern that the complaints-based mechanisms for compliance was an ineffective model for ensuring compliance by education providers. They also considered there to be a lack of available data on the experiences of students with disability and how the Standards are implemented.

### 2.3.1 There is a lack of oversight and consequences for non-compliance

A common view heard by the Review was that the Standards ‘lack teeth’, and there are few consequences when providers are non-compliant. Many participants believed that non-compliant behaviour was occurring, such as gatekeeping, not giving reasonable adjustments, and bullying, but that there was limited accountability and few repercussions for non-compliance. Many believed that a lack of consequences results in providers not being motivated to comply with the Standards, and discouraged students and families from making complaints.

Students and families felt strongly that providers were not proactive in complying with their obligations under the Standards, and it is left to families to constantly push for support for their children by raising issues or making complaints. One parent noted *“We need to know what we have to aim for and achieve, but who actually checks that anybody is meeting those Standards? Who actually monitors or guides or provides support for schools to actually follow those Standards? That’s the question.”* (Parent/carer, parents and carers of students with intellectual disability focus group). It was noted that complex complaints processes make it easier for providers to ‘get away’ with non-compliance.

To address the issues of a lack of consequences and accountability, a common suggestion was to have an independent body to handle complaints and to actively monitor providers’ compliance with the Standards. This concept was raised by participants across all education sectors. Many participants advocated for this body to audit providers’ compliance, with some suggesting that each provider be given a ‘score’ based on the audit’s result. Some participants suggested that the remit of the AHRC be expanded to include this function, or that a new authority be established for this purpose.

### 2.3.2 Some organisations called for an overhaul of the existing legislation

Some participants, particularly peak bodies and disability discrimination legal services, called for broader changes to the DDA and Standards.

#### **2.3.2.1 The current complaints system does not drive systemic change**

Participants felt that the current complaints-based mechanism used for compliance under the DDA has the effect of redressing individual situations (when issues or complaints are successfully raised and resolved) but does not readily support or drive systemic change. Additionally, proportionally few complaints progress through the formal process, limiting the lessons that can be learnt by the system as a whole.

As the Standards sit under the DDA, formal complaints are made to the AHRC. The steps involved in making a complaint to the AHRC are<sup>5</sup>:

- Making a written complaint
- Investigation of the complaint by the AHRC. This can involve contacting the person or organisation the complaint is about (the respondent), or other people who are mentioned in the complaint. The AHRC may decide not to proceed with the complaint at this point
- Conciliation between the complainant and the respondent, which usually involves a face-to-face or telephone meeting. Many complaints are resolved at this stage and do not need to proceed any further<sup>6</sup>
- If conciliation does not resolve the complaint, a complainant may take it to court for a formal decision. The AHRC cannot take a complaint to court on someone's behalf or support a person to take a complaint to court, and this step usually involves lawyers and legal services.

The AHRC does not have the power to decide if something is unlawful; this can only be determined by a court. This means that a complaint must be taken to court for a formal ruling on whether discrimination has occurred. Complaints resolved by conciliation are not always made public, which stops other organisations and people with disability understanding and learning from what has occurred in other, potentially similar, situations.

Many families shared their concerns about escalating complaints, especially given the significant personal resources that are required to pursue a complaint in the legal system or the AHRC, further noting that costs acted as a disincentive for families.

### ***2.3.2.2 There are issues with the operation of the DDA and interaction with the Standards***

Some organisations argued that the DDA as a piece of legislation is not operating as intended and called for an overhaul of the DDA and the Standards. These organisations believe that even where a complaint proceeds to a court to make a formal decision on whether discrimination has occurred, previous cases have set legal precedent that make proving discrimination extremely difficult in practice. Some of these bodies also stated that developments in case law around the DDA have led to misalignment between the DDA and the Standards, particularly in relation to reasonable adjustments and comparator tests for determining whether a student with disability has been treated 'on the same basis' as a student without disability<sup>7</sup>.

Some organisations further proposed the need to modernise the definition of disability within the DDA to be based on the social model of disability, rather than based on a deficit model. The Review recognises the importance of these matters and has referred them to the Australian Government Attorney-General's Department (AGD) for consideration. Actions to address these issues would best be dealt with in a holistic way that considers the DDA and its 3 Standards (education, transport and premises standards) collectively.

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<sup>5</sup> Available at <https://humanrights.gov.au/our-work/complaint-information-service/complaint-process-complaints-about-sex-racedisability-and>

<sup>6</sup> Available at <https://humanrights.gov.au/complaints/complaint-guides/conciliation-how-it-works>

<sup>7</sup> For example *Purvis v State of New South Wales (Department of Education and Training)* (2003) 217 CLR 92; *Sklavos v Australasian College of Dermatologists* [2017] 247 ALR 78; *Watts v Australian Postal Corporation* (2014) 311 ALR 680.

### **2.3.2.3 Alignment with international obligations**

A common theme heard by the Review was that the Standards and DDA are inconsistent with the UN CRPD. Organisations noted that there are some issues with the definitions of specific terms,<sup>8</sup> however the major concern was whether Australia was complying with the rights of children with a disability to an inclusive education.

Some of these organisations advocated for the creation of an ‘Inclusive Education Act’ that would replace the Standards, integrate the UN CRPD, and be more prescriptive than the Standards through explicitly guaranteeing the rights of students with a disability to education in a mainstream setting.

As outlined in the Australian Government’s Background Paper on the UN CRPD<sup>9</sup> provided to the Disability Royal Commission, the Government’s view is that the UN CRPD allows the use of both mainstream education and specialist schools for persons with disability. The Australian Government’s recurrent school funding arrangements reflect the policy position that parents and carers are best placed to choose the most appropriate educational setting that meet the needs of their child.

### **2.3.2.4 The Guidance Notes to the Standards are not well known or understood**

The Standards are accompanied by Guidance Notes “to provide additional explanatory material, including background information and comment, to assist the reader in interpreting and complying with the Standards”<sup>10</sup>. Despite being explicitly included in the Terms of Reference and in consultation questions, the Review heard limited feedback on the Guidance Notes. Feedback on how to properly interpret and apply the Standards, however, was a strong theme of the Review.

Where feedback about the Guidance Notes was provided, it varied. Some providers and organisations found them useful, while others consider them to be too difficult to understand with not enough practical guidance. Participants noted that even where the Guidance Notes provide clarifying information on the meanings of terms such as ‘on the same basis’, ‘unjustifiable hardship’ or ‘reasonable adjustment’, these are still confusing and written in a ‘legalistic’ way. Additionally, it was noted that the Guidance Notes are out of date; for example, they refer to the Human Rights and Equal Opportunity Commission, which was rebranded as the Australian Human Rights Commission in 2008.

It is unclear to the Review how widely used the Guidance Notes are, and by whom. Feedback indicates that the general public finds them inaccessible, and their wording makes them more suitable for technical audiences. The Guidance Notes are most likely to be of benefit to advocacy and legal groups. The department will work with the AGD to consider amendments to the Guidance Notes, and will consult peak bodies for disability and advocacy groups in this work.

## **2.3.3 Responsibility for implementing the Standards rests with those responsible for delivering education**

Responsibilities for implementing the Standards reflect the existing distribution of responsibilities for education in Australia. Educational authorities, educational institutions and education providers (including bodies who develop or accredit curricula or training courses) all have direct obligations under the Standards.

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<sup>8</sup> For example, the DDA refers to ‘reasonable adjustments’ while the CRPD refers to ‘reasonable accommodations’.

<sup>9</sup> Available at <https://disability.royalcommission.gov.au/publications/australian-government-position-paper-uncrpd>

<sup>10</sup> Disability Standards for Education Guidance Notes

As the owners of the legislation, the Australian Government has specific responsibility for enacting and amending the DDA and Standards and conducting 5-yearly reviews of the Standards. It has some direct responsibility for implementing the Standards in respect of the (usually shared) responsibility for the national agencies and regulators, and any bodies involved in the development and accreditation of curriculum and training material.

Responsibility for the delivery of many aspects of education – and therefore for implementation of the Standards in practice – rests with states and territories, as well as with private providers.

One of the existing mechanisms used by states and territories to examine the effectiveness of their own services is an audit. State auditors-general offer an independent assessment of performance of public sector entities and their services on topics that are of strong interest to the community. Positive reports build community confidence and adverse findings help alert the public and jurisdictions to areas for improvement.

The Review is aware that the Victorian Auditor-General's Office recently undertook an audit of Melbourne's tram network and the progress that had been made to comply with tram accessibility requirements and the strategies, plans and programs being used to achieve compliance with the *Disability Standards for Accessible Public Transport 2002*. The Review considers that it may be open to auditors-general in jurisdictions to incorporate consideration of the implementation of the Standards into a relevant performance audit related to their delivery of education. Any learnings could help to inform the next review of the Standards in 2025. Several auditors-general already have relevant audits in their forward workplan.

### 2.3.4 Policy and regulatory alignment provides a mechanism to strengthen implementation of the Standards

Each education sector has core documents, such as legislation or national frameworks, which are seen by the sector as the main document to comply with, and that sector regulatory authorities use in their oversight activities. These include:

- Early childhood education and care: *The National Quality Framework*
- School education: *Australian Professional Standards for Teachers*; *Australian Professional Standard for Principals* and Leadership Profiles; the Australian Curriculum; state and territory teacher registration requirements (Teacher Registration Boards); standards and procedures for accreditation of initial teacher education programs; Framework for Teacher Registration; standards and procedures for registration of schools
- VET: *Standards for Registered Training Organisations (RTOs) 2015*; *Standards for VET Regulators 2015*; *Standards for VET Accredited Courses 2012*; standards and procedures for VET training packages
- Higher education: *Higher Education Standards Framework (Threshold Standards) 2015*.

As well as containing very specific requirements to maintain registration and operate, many of these frameworks contain broad references to adhering to 'all relevant' legislation and regulations<sup>11</sup>. Generally, this clause encompasses a broad set of requirements, which may include quality, workplace health and safety, consumer protection, and anti-discrimination legislation, but do not

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<sup>11</sup> An example of this is the *Standards for Registered Training Organisations (RTOs) 2015*, which includes a provision that "[t]he RTO complies with Commonwealth, State and Territory legislation and regulatory requirements relevant to its operations" to also be compliant with the Standards for RTOs.

specifically name the Standards and may not provide sufficiently strong guidance on how to support their objectives.

These frameworks often require providers to adhere to the principles of access and equity, or assist educators to meet the specific learning needs of students with disability, but are not framed in reference to the Standards. Where providers offer support for students with disability, it is often based on sector-specific policies which include references to inclusion and diversity for equity groups generally or based on intrinsic beliefs around equity, rather than based around obligations under the Standards. The Standards are often a secondary consideration, if at all.

Additionally, the absence of reference or alignment to the Standards in these frameworks means regulatory bodies generally do not factor direct or indirect consideration of the Standards into their regulatory remit. Some regulatory authorities told the Review that they would have limited ability to take account of complaints or conciliation outcomes relating to compliance with the Standards.

A process of national policy and regulatory alignment with the Standards would support greater integration of the Standards in the education system and indirectly strengthen compliance with the Standards without introducing a new regulatory mechanism (such as a new independent body). It would have the effect of ensuring national and state regulators have regard to the Standards when undertaking their usual regulatory activity. Further, it would streamline arrangements for the education sector by incorporating existing legal obligations under the Standards into the education sector's core frameworks and standards.

This alignment may be achieved by ensuring national frameworks and standards adequately reflect the obligations in, and objectives of, the Standards, in their policies and regulations. Consideration would need to be given to the various national and state frameworks and standards, plus related regulation and supporting policy and guidance material, to determine where opportunity exists to address gaps or strengthen content to support achievement of the objectives of the Standards.

For example, while the various frameworks and standards for school teachers already include requirements related to supporting students with disability and understanding relevant legislation, there has been clear and persistent feedback through this and other Reviews that teaching capability regarding students with disability needs to be strengthened. This suggests there remains opportunity – whether in some or all of the Australian Professional Standards for Teachers or teacher registration requirements or standards and procedures for accreditation of initial teacher education programs – to strengthen the requirements and processes to ensure new and existing teachers have the knowledge and skills they need to support access and participation of students with disability in line with the objectives of the Standards.

It is not intended that this alignment exercise would expand the remit or scope of the national and state frameworks and standards in question. It is also not intended that national and state regulators of education would directly regulate compliance with the Standards.

This alignment will require collaboration between the Australian Government and states and territories. Where possible, existing opportunities to review or update these frameworks and standards (and/or their supporting policy and guidance material) could be leveraged.

### 2.3.5 The Australian Government should leverage its funding as a mechanism for accountability

The Australian Government makes a significant financial contribution to the education system through direct payments to providers, payments to students, and payments to educational authorities to be distributed to individual institutions. Many Review participants called for the Australian Government to use its funding levers as a mechanism to either incentivise compliance through conditional funding arrangements or compel compliance through consequences to both organisations and individuals.

As with national standards and frameworks, Australian Government funding agreements include general requirements to comply with 'all relevant' Commonwealth and state and territory laws. Inclusion of a *specific* requirement to implement the Standards as a condition of funding would have the unintended consequence of shifting responsibility for implementation of the Standards away from those who deliver education. This is at odds with the distribution of responsibility for education delivery in Australia and those who are best placed to ensure implementation of the Standards.

Targeted use of Australian Government funding is more appropriate; it can be employed as a mechanism to support objectives such as increased transparency of information about students with disability and improved accountability of education authorities to the community.

To this end, it is proposed the Australian Government introduce a requirement that all education authorities make information publicly available on their website about the services and supports their schools provide for students with disability as a condition of Commonwealth school funding. The information on services and supports may be provided on a central website, with a view to individual school websites facilitating ready access of their school communities to this and any additional local information wherever possible. This measure would help to address issues raised through the Review about the need to proactively provide information to help empower and support students and parents.

### 2.3.6 Greater transparency of data and outcomes for students with disability was sought

A common concern raised by a variety of Review participants was the lack of data on the access, participation and outcomes of students with disability (whether at a provider, system or national level). This makes it difficult to fully understand the current situation and scrutinise issues of implementation and compliance with the Standards. To increase understanding of the experiences of students with disability, particularly school students, many organisations advocated for the mandatory and regular collection and release of information including:

- The number of complaints made under the Standards
- Instances of suspension, expulsion and restrictive practices
- Students who attend part-time only, particularly in the schooling sector
- The number of students in segregated settings
- Academic attainment and outcomes.

Disaggregated data was sought in order to understand the specific experiences of groups such as Aboriginal and Torres Strait Islander students with disability, CALD students with disability, and girls or women with disability.

Participants felt that not measuring these areas leads to a lack of action, and this lack of data was constraining the ability to improve the experience of students with disability.

It is proposed to develop a set of nationally consistent principles and practices on collection and public reporting of data on school students with disability to support assessment of the extent to which they are accessing and participating in education on the same basis as their peers. This work would take account of any privacy considerations and the definitional differences between jurisdictions.

### 2.3.7 Responsibility for progressing the recommendations

Given the responsibility for education delivery largely rests with states and territories, the Australian Government will need to work with states and territories to implement relevant recommendations of this Review. The Australian Government Minister for Education could seek the support of education and skills ministers in all jurisdictions to do so. Appropriate governance of the implementation of the Review's recommendations will ensure progress is made given the cross-sector and cross-jurisdictional collaboration required.

Co-design with people with disability is a feature of several recommendations and needs to be considered upfront in the design of governance frameworks. The Australian Government will also consult with educators, education providers and state and territory education authorities in developing approaches to implementation of recommendations. Consideration of Aboriginal and Torres Strait Islander students with disability (and all groups experiencing intersectional disadvantage) will be factored into the implementation approach for all Review recommendations.

Implementation of the recommendations will require a staged approach with a first step being the development of resources and training materials and planning for a program of national regulatory alignment. The provision of resources, implementation of training and amendment of national regulatory standards and frameworks will be an important second stage. A further consolidation phase envisaged is consultation on the planned amendments to the Standards ahead of planning for the 2025 Review of the Standards. To increase transparency and accountability for ensuring the implementation of the recommendations, the Australian Government could commit to public annual reporting of progress against each of the recommendations. This will make clear to the community what actions have been taken, and where further work needs to be done.

#### Recommendation 7

That the Australian Government Minister for Education and the Australian Government Minister for Skills seek agreement from education and skills ministers to work together to ensure **national alignment of education policies and regulations to the Standards**. This alignment will streamline arrangements for the education sector by incorporating existing legal obligations under the DDA/Standards into relevant national and state standards and frameworks, which will **have the effect of ensuring all national and state regulators of education have regard to the Standards** when undertaking relevant regulatory activity.

Consideration should be given to amending relevant national and state standards and frameworks and/or their supporting policy and guidance material to support achievement of the objectives of the Standards. Relevant standards and frameworks could include:

- the Australian Professional Standards for Teachers
- the Australian Professional Standard for Principals and the Leadership Profiles
- the Australian Curriculum
- Standards and procedures for accreditation of initial teacher education programs in Australia

- Standards and procedures for registration of schools
- Framework for Teacher Registration in Australia
- Standards for Registered Training Organisations
- Standards for VET Accredited Courses
- Standards for VET Training Packages
- Standards for VET Regulators
- Higher Education Standards Framework

### Recommendation 8

That the Australian Government Minister for Skills work together with skills ministers through the Heads of Agreement for Skills Reform to **identify opportunities to strengthen delivery of vocational education and training for students with disability**.

### Recommendation 9

That the Australian Government Minister for Education **require all education authorities to make information publicly available on their website about the services and supports their schools provide for students with disability** as a condition of Commonwealth school funding from 2022. The information should be easily accessible and understood by parents and carers.

### Recommendation 10

That the Australian Government Minister for Education seek agreement from education ministers to **commission development of nationally consistent principles and practices on collection and public reporting of data for school students with disability** to support assessment of the extent to which they are accessing and participating in education on the same basis as their peers without disability.

### Recommendation 11

That the Australian Government Minister for Education write to:

- Education ministers and state auditors-general to **recommend inclusion of at least one performance audit related to implementation of the Standards in the auditor-general's work programs by 2024** (in order to inform the 2025 Review of the Standards). This could be through consideration of the implementation of the Standards where relevant to an aspect of an existing planned performance audit

and

- Relevant Australian Government Ministers to ask them to **ensure any arrangements within their portfolio for education or training delivery or course curriculum development and accreditation have appropriate regard to the requirements of the Standards**.

## 2.4 Building awareness and capability in the early childhood education and care sector

A separate stream of consultations was undertaken in the ECEC context to consider parents', carers' and educators' awareness, understanding and application of the DDA.

The Standards, while applicable to the majority of education services, including pre-schools and kindergartens, do not apply to 'child-care providers'. As set out in section 1.2 of this report, the Standards provide additional clarity on the rights and obligations of students with disability and of education providers under the DDA.

Where the term **ECEC** is used, it covers child care providers and ECEC services.

### 2.4.1 All early childhood education and care services must comply with the DDA

The DDA is Commonwealth legislation that has been in place for nearly 3 decades. Under the DDA, it is unlawful to discriminate against a person on the basis of disability. Section 22 of the DDA makes it unlawful for an education authority to refuse or fail to accept a person's application for admission, or to make certain terms or conditions on the admission, that discriminate against the person on the grounds of their disability.

If an ECEC provider is not considered to be an education authority or education provider as defined in the DDA, they need to meet section 24 of the DDA. This section makes it unlawful for them as a provider of goods, services or facilities to refuse to provide those goods, services or facilities to someone because of their disability.

Both the 2010 and 2015 Reviews recommended considering extending the application of the Standards to child care providers. The 2015 Review found that the sector had undergone significant reforms which increasingly emphasised the educational purpose of ECEC services, and noted the exclusion of child care from the Standards appeared to be an anomaly.

The distinction made in the Standards between preschools/kindergartens and child care providers does not reflect the complex arrangements in place in the ECEC sector:

- There are a diverse range of service types offered by ECEC providers. These include preschools, kindergartens, centre based day care, family day care, in home care, outside school hours care (including for school aged children), and a range of other services
- There are jurisdictional differences in the settings in which preschool programs are delivered
- ECEC learning programs, including preschool programs, are delivered across these different settings in different ways (e.g. a centre based day care service may offer a preschool program).

To test the need and case for this recommendation in the 2020 context, the Review undertook a separate stream of consultation for child care parents, carers and educators, including the provision of a separate discussion paper and questionnaire. This stream was designed to test how well known and applied the DDA is in the ECEC sector, and whether the protections offered by the DDA were effectively engaged by families of children with disability accessing and participating in child care services. This enabled the Review to determine if there was sufficient evidence to suggest that providing further clarity to those using and educating within the sector would be of benefit to both families and providers.

The Australian Children's Education and Care Authority (ACECQA) consulted with ECEC providers in parallel to the Review consultations and their findings have informed this section.

## 2.4.2 There is limited awareness and understanding of the DDA in the ECEC sector

The Review found that, similar to the experiences of parents, carers and educators in other education sectors in respect of the Standards, there is a need to raise awareness of rights provided by the DDA. Responses to the ECEC questionnaire, backed up through consultation event responses, indicated that while many ECEC services had an awareness of the DDA, some participants had never heard of the DDA, or had heard of it, but had never read it or were unaware of its content.

Many parents and carers reported that they had not been directed to information about the DDA, nor made aware of their rights prescribed under the DDA when enrolling in child care. Where there was knowledge of the legislation, there was often confusion about how the DDA was applied and what it meant in practical terms in relation to their child. One ECEC webinar participant summarised it this way: *"Little is understood about the DDA."*

There was strong support for awareness-raising about the DDA to be provided early in the lives of children with disability, and through a range of services and means. The provision of information which sets out the rights of parents and families and the obligations of child care providers and their educators was considered essential. The information, when provided, helped to equip both parents and carers and educators with critical knowledge which impacted the experiences of parents and carers trying to access and participate in ECEC services. Other suggestions for improvement included the sharing of information with other families who were in similar situations, through forums, webinars and Facebook groups, to learn from experiences and to better understand how to advocate for their child within a child care setting.

In relation to educators, some submissions suggested that the profile of the ECEC workforce contributed to educators' low level of understanding about the DDA. Others cited a lack of resources and a lack of training (discussed in 2.4.6) which contributed to poor awareness and understanding of the DDA. Educators acknowledged that improvements in training would increase their awareness; however, they indicated better awareness of the DDA by themselves than they observed in parents and carers.

## 2.4.3 Transitions into and out of ECEC can be problematic and stressful for parents, carers, and their children

While most commentary during the Review was about the transition from ECEC to school, there was some evidence that even securing a place, where the family felt both welcome and confident that their child would be fully supported and well cared for, was a challenge for some families.

Overwhelmingly, however, the transition from child care to school was reported as the time of greatest stress and disruption for families and the children involved. This was attributed to a lack of awareness about the Standards and not knowing what level of support a school would provide. Families reported positive experiences where the transition was made over time, where information flowed between the child care service and the school, and where visits or excursions ahead of enrolment were encouraged. Strong partnerships between ECEC services and local schools were also recognised as critical by these families:

"Far from being a supportive process for the child and family, it was divisive, confrontational, blaming and devastating for all those involved. It took a very

long time for the family to recover from the experience” (Parent/carer, parents and carers online discussion board)

#### 2.4.4 Complaints processes are difficult to navigate, and parents and carers worry about repercussions

Similar to the findings across other education sectors in relation to the Standards, parents and carers reported difficulties in navigating formal complaints processes under the DDA. Many shared that there appear limited avenues for making a complaint, and that the fear of retribution was a major disincentive.

The response of families who faced challenges in securing a child care place or whose child had a poor experience in a centre was generally to seek a place with an alternate provider (to ‘shop around’) or to move to another centre, rather than make an official or formal complaint to the provider or to pursue an outcome through the legal system. The Review heard that, unlike in other education sectors which have mandated attendance and set catchment/priority enrolment areas in place (e.g. schooling), families were less likely to try to negotiate and attempt to resolve issues around support services for their child where they sensed unwillingness or a lack of support.

#### 2.4.5 Communication is central to positive outcomes and must be two-way

The Review found children with disability tended to have positive experiences and better outcomes where parents and carers had been able to establish and maintain a good relationship with ECEC staff and educators. Consistent with other education sectors, the Review heard that parents and carers felt that the burden of communication most often rested with them.

Where poor communication existed, it became a barrier to timely and appropriate care and support, including access to a centre and having reasonable adjustments both agreed to and made by an ECEC service. For many, a lack of understanding by both parents and carers and ECEC services of the rights and obligations under the DDA resulted in parents and carers expressing the need to ‘shop around’ from service to service to secure a place where they felt appropriate care would be provided. Some parents and carers also suggested educators seemed too busy to make reasonable adjustments for their child.

Two issues raised by educators (and ECEC providers) included both the failure by some families to disclose the disability of a child at the time of admission, and a lack of diagnosis on entry to a service. Many parents and carers admitted to the practice of failing to disclose, noting they feared rejection of their child. Others shared that they had not received a formal diagnosis at time of admission. Where disability became known post admission, the Review found that families had good experiences in many instances and that the support needed for their child had been arranged by the ECEC service.

Further, participants consistently identified the importance of strong consultation between services, educators, parents and carers in the process of identifying the needs of the child and making a reasonable adjustment. Stronger and more consistent consultation processes are likely to benefit families accessing services in this sector.

#### 2.4.6 The capability of many ECEC educators could be improved

The Review found that many services had a poor understanding of the DDA and what it meant for service provision. Many contributors called for more highly qualified and trained ECEC staff. As one disability body reflected, *“Parents in the early years need a confident, disability literate workforce to*

*support them navigate*". This was particularly evident in relation to making reasonable adjustments, as many educators reported having low confidence and limited or no experience, however other educators expressed confidence in these skills. As one early childhood educator noted, *"I 100 per cent believe that our sector needs to be better trained from the get-go in terms of inclusive practice and understanding how to care for children with additional needs"* (Educator, ECEC educators focus group).

Awareness and understanding of the DDA could be improved through changes to ECEC pre-service training to improve entry-level knowledge prior to joining the workforce. For those working in the early childhood context, more support and skill development through the provision of resources and training were suggested by many to be threshold issues for ECEC educators. To support the full range of families accessing services, this should include information on working with families from a range of backgrounds, including Aboriginal and Torres Strait Islander families and families from culturally and linguistically diverse (CALD) backgrounds. Where possible, the Australian Government will seek to influence the requirements in qualifications for early childhood educators to ensure awareness and understanding of the DDA and its application is clear .

## 2.4.7 Positive service leadership is critical and underpins good experiences

The Review found that leadership, as in other settings, is important in setting the tone within an ECEC service. Many contributors to the Review spoke about their negative experiences in terms of accessing child care settings, negotiating appropriate adjustments and establishing meaningful programs for their children with disability. Put by one parent:

"The daycare staff told me I was lucky to find someone willing to look after my child." (Parent/carer, parents and carers focus group)

Other parents and carers reported experiencing 'gatekeeping' by the Centre Director or front office staff, citing comments from ECEC services about their inability to provide appropriate supports for their child. They further reported their perception that ECEC services used excuses such as long waiting lists or 'being full' as a means of discouraging parents and carers from submitting an application. The Review also heard from advocacy services of instances where staff felt they were prevented by the Centre Director from making what they considered to be a reasonable adjustment for a child with disability in their care.

Where good experiences were reported, this often stemmed from the positive and supportive attitude of and environment established by the Centre Director or leader:

"I do get frustrated that other services don't step up and are not more welcoming and more inclusionary, but then I think also you need to be in a certain circumstance where you have the knowledge, you have the training, you know what hoops to jump through, and you know you have the staff that can back you up when you do include a child." (Centre director, ECEC educators focus group)

The 2018 changes to the *Priority of Access Guidelines* with the replacement of the *Child Care Benefit (Eligibility of Child Care Services for Approval and Continued Approval) Determination 2000* by the *Child Care Package* may have also impacted on the readiness of some ECEC providers to provide placements for children with disability. These changes meant that ECEC providers are not legally required to prioritise children with disability when filling centre vacancies. Irrespective of this, under the DDA, ECEC providers are required to give consideration to an application for a place from a parent of a child with disability on the same basis as a child without disability.

## 2.4.8 Clarification of how the NDIS works in ECEC would help

The Review heard that families can be unaware of the supports available to them through the National Disability Insurance Scheme (NDIS). ECEC services often lack capacity to identify a child's needs and facilitate additional supports.

Further, parents, carers and educators reported confusion about the roles and responsibilities between educators/education providers and NDIS providers. This confusion could translate to a delay in obtaining or putting in place appropriate supports for children with disability.

A further issue was that of having specialist supports funded by the NDIS, not the centre, requiring therapists and other support staff to work within centres to deliver that support, which needed the cooperation of the centre. Parents and carers also raised the inconsistencies in referencing of critical requirements for government support, in particular, definitions of disability:

“The ways in which NDIS funding can (or rather cannot) be used to support education needs a review. The Standards could play a part in this.” (Education professionals and academics, online discussion board).

The Review heard that given the complex interface between the NDIS and the education sector (ECEC in particular) further clarification of the roles and responsibilities of service systems and the NDIS is required, coupled with communication of these boundaries to all ECEC providers and parents and carers.

## 2.4.9 Role of the Inclusion Support Program in ECEC

The Inclusion Support Program (ISP) is the primary Australian Government mechanism for supporting inclusive access and participation by children with disability in ECEC services. It is designed to assist ECEC services to include children with additional needs by providing support, in the form of practical and tailored advice and strategies on effective inclusive practice from contracted Inclusion Agencies, as well as funding to address more challenging inclusion barriers. The program provides support for eligible ECEC services to build their capacity and capability to include children with additional needs in mainstream services, providing them with an opportunity to learn and develop alongside their typically developing peers.

Submissions which discussed ISP called for broader eligibility criteria to increase the number of children with disability accessing the program. Some ECEC providers were concerned about the level of support they received from their ISP team, including knowledge of the program. Providers shared concerns with the ISP platform itself, citing it as unstable, not intuitive and hard to navigate. A number of submissions indicated concern that ISP does not support or provide for the professional development of centre staff to increase their capability in supporting children with complex needs, nor release time to attend meetings with allied health professionals about management of individual children, thus diminishing their ability to support children with disability.

## 2.4.10 Early childhood education and care policies and regulations should be aligned to the DDA

Similar to the issues raised in other sectors about reflection of the Standards in relevant national and state frameworks, there was strong support for ensuring national alignment of early childhood education and care policies and regulations to the DDA. Alignment would streamline arrangements for the ECEC sector by incorporating existing legal obligations under the DDA into relevant national and state standards and frameworks. A key national framework is the National Quality Framework

(NQF). Its important role in ECEC was clearly articulated in consultations. The NQF is well known, well understood and provides a national approach to regulation, assessment and quality improvement for ECEC and outside school hours care services across Australia.

As with the proposed approach to national policy and regulatory alignment in schooling, VET and higher education outlined in 2.3.4, a process of alignment of national and state ECEC policies and regulations with the DDA would support greater integration of the obligations under the DDA in ECEC and indirectly strengthen compliance with the DDA. It would have the effect of ensuring ECEC regulators take account of the requirements of the DDA as part of their usual regulatory activity.

This alignment may be achieved by ensuring ECEC frameworks and standards adequately reflect the obligations in, and objectives of, the DDA. Consideration would need to be given to the NQF and related national and state regulation and supporting policy and guidance material to determine where opportunity exists to address gaps or strengthen content to support achievement of the objectives of the Standards.

As in 2.3.4, it is not intended that this alignment exercise would expand the remit or scope of the NQF or other frameworks and standards. It is also not intended that ECEC regulators would directly regulate compliance with the DDA.

This alignment will require collaboration between the Australian Government and states and territories. Where possible, existing opportunities to review or update these frameworks and standards (and/or their supporting policy and guidance material) could be leveraged.

#### 2.4.11 Some providers and educators incorrectly believed the Standards already apply to child care provision

There was evidence that some ECEC educators and providers believe that the Standards currently applied to child care providers, as distinct from preschools and kindergartens. Put by one submission:

“In Early Childhood settings there is confusion over whether the Standards even apply to 3 and 4 year old kinder” (Association for Children with Disability submission). In another, there was an assumption that the Standards applied to all settings, stating their view that there was “unanimous agreement that the professional development needs of early childhood educators in relation to the Standards were not being met” (Australian Education Union submission).

This belief impacted on the views and behaviours of ECEC providers and educators in respect of providing access to ECEC services for children with disability, and on the treatment of those children when participating in services. This was most evident in respect of the provision of reasonable adjustments to allow children with disability to fully engage with the early childhood education programs offered to all children. One large service provider had the following to say about this matter illustrating this misunderstanding:

“The Standards provide clear detail about an [ECEC] provider’s obligation to make ‘reasonable adjustments’ to assist a child with disability to participate in educational programs.”

#### 2.4.12 Views on extending the Standards to child care

The question of whether the Standards should be extended to child care providers was not directly asked during this Review, given the need to establish a baseline understanding of participants’

knowledge of the rights and the obligations which already existed under the DDA. Nonetheless, a number of participants in Review consultations, including the ACECQA engagement with ECEC providers, raised the issue of the extension of the Standards to child care and, in the main, supported such an extension. There was no view put to the Review that the Standards should not be extended to child care.

Where submissions suggested extending the Standards, it was often based on no or a limited understanding of the rights and obligations afforded by the DDA. Where respondents called for the extension of the Standards to child care providers, it was most often based on the mistaken assumption that extension of the Standards to child care would extend further rights to families of children with disability and to improve access to services; in fact, the DDA already provides these rights.

#### 2.4.13 Foundational work is required ahead of amending the Standards in 2023

Children with disability must be able to access and participate in ECEC on the same basis as children without disability. There is strong evidence that the early years of a child's life have a profound impact on their future cognitive, social, emotional and physical development. The skills and abilities acquired in early childhood are fundamental to a person's success and wellbeing later in life.

As noted in previous reviews, the exclusion of child care providers from the Standards appears to be anomalous and out of step with reforms that have increasingly emphasised the educational purpose of ECEC services. Further, the distinction made in the Standards between preschool/kindergarten and child care is imprecise and does not reflect the diversity of service types and the range of early education and care learning programs offered by ECEC providers.

Current arrangements whereby the Standards apply only to preschool and kindergarten create the mistaken impression that the rights of children with disability in relation to education in a child care setting are somehow different to those in a preschool/kindergarten setting. While extending the Standards to incorporate child care would not, in itself, alter or increase the existing rights of children with disability or obligations of ECEC providers, the current exclusion of child care from the Standards contributes to a poorer understanding of rights and obligations in an ECEC context.

It is proposed that an important first step is to undertake a foundational body of work to strengthen understanding of existing rights and obligations under the DDA as they apply in the ECEC sector. This includes developing resources and information products to improve parents and carers' understanding of the DDA as it relates to ECEC, as well as further training and resources to support ECEC services to fulfil their obligations. This should be underpinned by collaboration with states and territories to pursue amendments to the NQF to align with the DDA.

This body of work should be completed ahead of consulting on draft amendments to the Standards in 2023 in relation to the ECEC sector.

## Recommendation 12

That the Australian Government Minister for Education **build early childhood education and care (ECEC) sector awareness and capability regarding the *Disability Discrimination Act 1992* (DDA) by developing information products for parents and carers**. The products will be provided to relevant Australian Government agencies, the Australian Children's Education and Care Quality Authority, and states and territories to promote within their respective areas of responsibility.

By 2023, the Australian Government will prepare **draft amendments to the Standards to incorporate ECEC** for sector consultation.

## Recommendation 13

That the Australian Government Minister for Education seek agreement from education ministers to **build early childhood education and care (ECEC) sector awareness and capability regarding the *Disability Discrimination Act 1992* (DDA)** by:

- Asking the Australian Children's Education and Care Quality Authority to develop and implement an **awareness campaign and resources for ECEC providers**
- **Ensuring national alignment of early childhood education and care policies and regulations to the DDA.**
  - This alignment will streamline arrangements for the ECEC sector by incorporating existing legal obligations under the DDA into relevant national and state standards and frameworks. It will **have the effect of ensuring state regulators of ECEC have regard to the DDA** when undertaking relevant regulatory activity.
  - Consideration should be given to amending relevant national and state standards and frameworks and/or their supporting policy and guidance material to support achievement of the objectives of the Standards. Relevant standards and frameworks could include the National Quality Framework.

# Appendices

## Appendix A – 2015 Review recommendations and actions taken to date

The 2015 Review of the *Disability Standards for Education 2005* (the Standards) produced 14 recommendations. Table 1 outlines these recommendations and actions taken following this review.

Table 1: 2015 Review recommendations and actions taken to date

**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.

### **2015 Australian Government response to Recommendation 1: Agree in principle**

The Australian Government agrees in principle to recommendations 1 and 2. The Australian Government affirms that all students should be provided with an inclusive education, where all students are supported to learn, contribute and participate in all aspects of their education and learning environment.

All education institutions are encouraged to share the Standards with their students and communities. The Standards and accompanying resources are published on the Australian Government Department of Education and Training website, and we invite other education providers and disability stakeholders to hyperlink to this information. The Australian Government is currently unable to enforce that the Standards are shown on every education institution's website, but encourages education providers to prominently display the Standards in their facilities and to share this information with students. This relates not only to schools, but also vocational education and training and tertiary settings.

For students in vocational education and training, the Standards for Registered Training Organisations 2015, which came into effect on 1 April 2015, have strengthened requirements for the provision of information to learners by registered training organisations (RTOs). An RTO is required to provide or make readily available information to the learner that outlines the services available (including educational and support services), and the rights and obligations of the learner. This information may be provided to the student through one or more documents in print or electronic formats. The Australian Government encourages that this practice also occurs in early learning and higher education settings.

**Actions taken by governments:**

The Australian Government has made a range of relevant resources available through the Nationally Consistent Collection of Data on School Students with Disability (NCCD) [Portal](#), released in February 2019. The Australian Curriculum Assessment and Reporting Authority (ACARA) has developed a range of resources, available on the [Student Diversity](#) webpages of the Australian Curriculum website.

The Australian Skills Quality Authority (ASQA) has developed a Fact Sheet to assist registered training organisations (RTOs) to understand their obligations under the Standards and to support reasonable adjustments. The [Guidance Note: Diversity and Equity](#) developed by the Tertiary Education Quality and Standards Agency (TEQSA) assists higher education providers to understand their obligations under the Standards.

The Australian Disability Clearinghouse on Education and Training (ADCET) provides information and resources for students with disability on its website. State and territory governments are active in promoting both national products and their own products within their jurisdictions.

**Recommendation 2: That the Australian Government work with State and Territory governments to ensure that an accessible summaries [sic] 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.**

**2015 Australian Government response to Recommendation 2: Agree in principle**

Refer to recommendation 1

**Actions taken by governments:**

A range of relevant resources have been made available as per recommendation 1. Individual jurisdictions and education providers are responsible for providing these to prospective students as part of enrolment processes, and for publication and display on their website and premises.

**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.**

**2015 Australian Government response to Recommendation 3: Agree**

For recommendation 3, the Australian Government agrees to the development of such resources and has funded the development of Exemplars of Practice. These exemplars will demonstrate how the Standards can be used across education settings (including early learning, schools, vocational and tertiary) to provide better outcomes for students with disability. These Exemplars will be available in late 2015 on the Department of Education and Training's website.

### **Actions taken by governments:**

A range of best practice exemplars are available and promoted across jurisdictions, particularly in the schooling sector. These include exemplars of good practice available on the DESE website, case studies and Illustrations of Practice on the NCCD Portal, and Illustrations of Practice on the Australian Institute for Teaching and School Leadership (AITSL) website.

ASQA has developed a Fact Sheet available to RTOs: *Providing quality training and assessment services to students with disabilities* and ADCET provides information, resources and best practice information for Disability Practitioners, teachers and other support staff to support students with disability in tertiary education.

The National Centre for Vocational Education Research has developed the [\*Supporting tertiary students with a disability or mental illness: good practise guide\*](#) and a supporting document: [\*Supporting tertiary students with disabilities: individualised and institution-level approaches in practise\*](#). These resources provide examples of best practice for the provision of learning supports for tertiary students with disability or ongoing health conditions.

**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.**

### **2015 Australian Government response to Recommendation 4: Agree in principle**

In response to recommendation 4, the Australian Institute for Teaching and School Leadership (AITSL) was established to provide national leadership for the Commonwealth, state and territory governments in promoting excellence in the profession of teaching and school leadership. AITSL has responsibility for professional standards, fostering and driving high quality professional development for teachers and school leaders.

AITSL works collaboratively across jurisdictions and engages with key professional bodies to support the implementation of the Australian Professional Standards for Teachers. Under the Professional Knowledge domain of the Australian Professional Standards for Teachers, standard 1 is to *Know Students and how they learn*. This applies also to teaching students with disability. The proficient level of this standard requires teachers to demonstrate that they can “*Design and implement teaching activities that support the participation and learning of students with disability and address relevant policy and legislative requirements.*” The implementation of the Nationally Consistent Collection of Data on School Students with Disability (NCCD) encourages the use of quality, differentiated teaching to support the learning needs of all students.

AITSL’s website provides examples of teaching practices in their Illustrations of Practice: [www.aitsl.edu.au/australian-professional-standards-for-teachers/illustrations-of-practice](http://www.aitsl.edu.au/australian-professional-standards-for-teachers/illustrations-of-practice). Professional development remains the responsibility of employers in states and territories.

The Teacher Education Ministerial Advisory Group (TEMAG) report, “Action Now: Classroom Ready Teachers” was released in February 2015. In response to this review, work being undertaken by AITSL to strengthen the Accreditation Standards with the aim to ensure that initial teacher education courses equip new teachers with skills to be successful in the classroom and to teach a diverse range of students including students with disability.

**Actions taken by governments:**

Disability specific professional learning and training opportunities for educators exist across education sectors and jurisdictions. The [NCCD Portal](#) contains a comprehensive range of resources for teachers.

In response to the 2015 Teacher Education Ministerial Advisory Group report, “*Action Now: Classroom Ready Teachers*”, work was undertaken by AITSL to strengthen the Accreditation Standards and Procedures with the aim to ensure that initial teacher education courses equip new teachers with skills to be successful in the classroom and to teach a diverse range of students including students with disability. AITSL has developed classroom resources for teachers including an illustration of practice video to assist teachers in establishing programs that are inclusive of children with disability.

The Certificate IV in Training and Assessment is the entry level qualification for VET educators. This qualification includes an elective unit of competency, *Plan and implement individual support plans for learners with a disability*. An additional elective, *Develop and implement accessible training and assessment plans for learners with disability* is included in the Diploma of Vocational Education and Training, and the Diploma of Training Design and Development.

Relating to the higher education sector, under the Disability Support Fund, providers can offer staff training to support students with disability, and modifications to course content, teaching materials and delivery methods. Further, ADCET will receive an increase in annual funding to provide for an enhanced role in the promotion of inclusive teaching and learning practices.

**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.

**2015 Australian Government response to Recommendation 5: Agree in principle**

In response to recommendation 5, the Australian Government agrees that further work can be done on the intersection of education providers' responsibilities for provision of reasonable adjustments and support under the NDIS and the Standards. The Department of Social Services and the National Disability Insurance Agency (NDIA) have work underway to further support the NDIS and education provider responsibilities.

The Principles to determine the responsibilities of the NDIS and other mainstream service systems state that the NDIS will fund personalised supports related to a person's support needs, unless

those needs are the responsibility of another service system's universal obligation or covered by reasonable adjustment as required under the *Disability Discrimination Act 1992* or similar legislation in jurisdictions. There are Applied Principles and Tables of Support specific to early childhood development (which includes pre-school education), school education, vocational education and training and higher education. The application of the Principles takes into account the guidance provided by the Standards. The Applied Principles can be found on the COAG web site at [www.coag.gov.au/node/497](http://www.coag.gov.au/node/497).

In addition, the NDIA has published Operational Guidelines on Supports in Participant Plans that interface with early childhood, school education, vocational education and training and higher education. These provide guidance on the intersection of education providers' responsibilities and the responsibilities of the NDIS. They are available on the NDIA web site at [www.ndis.gov.au/about-us/operational-guidelines](http://www.ndis.gov.au/about-us/operational-guidelines).

The Commonwealth, in conjunction with state and territory governments and the NDIA have recently reviewed the Applied Principles and Tables of Support to ensure that they support decisions to appropriately define supports as either the responsibility of mainstream services (including education) or the NDIS. The outcome of the review will be considered by COAG in October 2015.

During transition to full scheme of the NDIS, the Commonwealth will continue to work with state and territory governments and the NDIA to ensure that decisions on responsibilities for supports for NDIS participants are consistent with these principles.

The Australian Government will consider the range of issues covered in recommendation 5, and how this can be addressed through additional resources to support the Standards. It is noted that the Standards include reference to industry placements (part 6.3e of the Standards). Further attention to and awareness of responsibilities related to placements may be required through additional resources for school, vocational education and training and tertiary settings.

#### **Actions taken by governments:**

The responsibilities of education providers under the Standards compared to those of the National Disability Insurance Scheme (NDIS) were clarified in 2015 in the [Principles to determine the responsibilities of the NDIS and Other Service Systems](#). Further, the [National Disability Insurance Agency](#) provides information about the funding responsibilities of education systems and the NDIS.

DESE is a member of the School Education Working Group, a meeting of Commonwealth, state and territory officials, which is working on 2 of the key areas of interaction between NDIS and Education funding:

- Personal Care in Schools
- Specialist School Transport.

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

##### **2015 Australian Government response to Recommendation 6: Agree in principle**

The Australian Government recognises that there are difficulties in enforcing the Standards unless a complaint of unlawful disability discrimination is lodged with the Australian Human Rights Commission. Members of the public reported frustrations with this process in the 2010 Review, and this issue still remains. In order to improve compliance processes, the Australian Government

believes that the 'self-audit' tools described in recommendation 6 would be useful for providers of all levels of education and ultimately benefit students with disability and learning difficulty. The development of such tools could assist education providers in assessing how well they consult with students and their families (when relevant) and how they address additional needs of the students, which may be impacted on by further factors (such as geographic location and cultural barriers). For schooling settings, the Australian Government will consult with education authorities to develop the self-audit tool. In vocational education and training, and tertiary settings, alternate methods will be used to develop such tools for their education providers.

#### **Actions taken by governments:**

Actions to respond to this recommendation are underway in the schooling sector. A national NCCD/support for students with disability [reflection tool](#) was developed in 2016, scoping for the development of a Standards self-audit tool for schools is under consideration, and some jurisdictions have their own self-reflection tools.

In November 2020, a [survey tool](#) was published on the NCCD Portal. The survey is designed to be used as a pre and post measure at the beginning and end of the NCCD cycle and/or each year to monitor staff NCCD understanding, implementation practices and approaches.

While there is no specific tool available to enable higher education providers to self-audit against the Standards, the resources provided by ADCET include information on the requirements of higher education providers under 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 outline the type of consultation required, the frequency of consultation and how consultations are to be documented.**

#### **2015 Australian Government response to Recommendation 7: Agree in principle**

In response to recommendations 7 and 8, the Australian Government has worked with state, territory and non-government representatives in schooling to produce the *Planning for Personalised Learning and Support* national resource, published in July 2015. This tool was developed to guide discussions on personalised learning with the student, their family or carer, school personnel, professionals and other relevant people. It is available at <http://www.education.gov.au/disability-standards-education>.

The Standards mandate consultation with the student and their family/carers. In the school system, education authorities and sectors have policies/processes around how consultation should occur, who can or should be involved, how it should be documented, and how frequently consultation should occur in order to revisit required adjustments. The Australian Government cannot enforce specific requirements around consultation, but encourages all education providers (including vocational education and tertiary providers) to use best practice processes when consulting with students/families, using the above resource as an example. The Standards do not state requirements of individual learning plans. Decisions on how to develop individual learning plans and the process of consultation lie with education providers and education authorities.

**Actions taken by governments:**

Work to improve consultation practices has been undertaken in the schooling sector through the annual NCCD Guidelines and collaborative development of national personalised learning and support resources.

[Planning for Personalised Learning and Support: A National Resource](#) is available on the NCCD Portal as part of a range of resources on planning for personalised learning and support. The [NCCD Portal](#) offers a range of resources to assist schools with communication.

ACARA developed a [Students With Disability and Additional Learning Needs Engagement Plan](#) in 2020 to consolidate disability-related activity into a single ACARA-wide plan and provide a platform for forward communication and engagement.

The Threshold Standards require higher education providers to: monitor identified student groups and use the findings to improve teaching, learning and support strategies for those groups; and assess the needs and preparedness of individual students and cohorts and ensure they have equivalent opportunities for successful transition into/progression through their course of study.

**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.**

**2015 Australian Government response to Recommendation 8: Agree in principle**

Refer to recommendation 7

**Actions taken by governments:**

For the schooling sector, the NCCD Guidelines reinforce the legal obligations of the Standards, including the requirement to consult before making an adjustment for a student. Extensive resources have also been developed to support teaching and school support staff in planning and delivering programs and adjustments for students with disability.

ACARA restructured its Student Diversity webpages in response to this recommendation and created a dedicated section on [Planning for Diversity](#). The [CASE Steps](#) are a central component of these resources.

**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.**

**2015 Australian Government response to Recommendation 9: Agree in principle**

For recommendation 9 the Australian Government agrees to explore the feasibility of alternative enforcement and compliance mechanisms. At present, there is a range of methods of making complaints through a range of bodies, from the school/education provider level, to education authorities (such as local department of education) and state/territory anti-discrimination boards.

For vocational education and training, the Australian Government launched the new National Training Complaints Hotline (the Hotline) on 20 January 2015. The Hotline is a joint initiative with

state and territory governments and allows the public to raise concerns about the training sector. The Hotline directs complaints to the appropriate Commonwealth, state or territory organisation for assistance. The Hotline also allows the Australian Government Department of Education and Training to analyse complaint trends in order to quickly identify further action and improvements that are needed.

The Hotline will be independently reviewed during 2015. It is appropriate that the findings from the operations, and review, of the Hotline may contribute to Government considerations of recommendation 9 and to the application of complaints management and monitoring relating to non-compliance with the Standards at the national level for this sector.

**Actions taken by governments:**

Jurisdictions remain responsible for decisions about what information to publish. The Australian Human Rights Commission (AHRC) publishes information on a selection of complaints under the DDA that have been resolved through the AHRC's conciliation process. The information provided on the [Disability Rights Conciliation Register](#) is de-identified and includes conciliated settlements, Court decisions, and Commission determinations.

2020 Review recommendation 10 provides for states and territories to work together to develop and apply nationally consistent principles on better practice for public visibility of data on school students with disability, including complaints.

**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.**

**2015 Australian Government response to Recommendation 10: Agree in principle**

With recommendation 10, the Australian Government understands the intent of establishing a nationally consistent monitoring and accreditation model to strengthen proactive compliance with the Standards. As this model has the potential to impact a large number of education providers, in consideration of the deregulation agenda of the Australian Government, it is not clear that the benefits would outweigh the cost of such additional reporting mechanism. However, the Australian Government sees that 'self-audit' tools could benefit education providers in a wide variety of contexts and therefore will explore the feasibility of appropriate compliance mechanisms.

**Actions taken by governments:**

As per the Australian Government response to this recommendation, the intent of this recommendation has been pursued through work on self-audit tools outlined in comments on recommendation 6.

**Recommendation 11: That the Australian Government consider extending the application of the Standards to include child care providers.**

**2015 Australian Government response to Recommendation 11: Noted**

With recommendation 11, the Australian Government will consider extending the application of the Standards to include child care providers. In view of its role in overseeing the National Quality Agenda for Early Childhood Education and Care, the Australian Government will refer the

recommendation to the Education Council for its consideration. The *Disability Discrimination Act 1992* currently makes it unlawful to discriminate in the provision of goods and services, including services provided by child care providers.

**Actions taken by governments:**

Mapping, data analysis and stakeholder engagement work have been undertaken. The 2020 Review recommendation 12 provides for the Australian Government to work with states and territories to build ECEC sector awareness and capability regarding the DDA ahead of amending the Standards to incorporate ECEC. The 2020 Review recommendation 13 calls for education ministers to work together to **ensure the National Quality Framework** aligns fully with the DDA.

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

**2015 Australian Government response to Recommendation 12: Agree in principle**

With recommendation 12, the Australian Government recognises that there have been difficulties experienced by students and families in achieving consistency of adjustments between classroom and assessment contexts. The Australian Government will work with states and territories to identify what can be done to reduce the impacts and burden placed on students and families when seeking special assessment provisions through assessment regulators.

**Actions taken by governments:**

Within the schooling sector, continuity and consistency of adjustments has been supported through the NCCD model, NCCD Portal and the guidance material produced by ACARA.

The [NCCD Portal](#), and the definitions and descriptors of the NCCD levels of adjustment, assist in providing consistency of adjustments between classroom and assessment contexts.

ACARA has developed a [suite of guidance materials](#) for test administration authorities, sectors and schools to ensure students with disability can access NAPLAN with the same adjustments as used in classroom activities.

**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.**

**2015 Australian Government response to Recommendation 13: Not agreed**

For recommendation 13, the Australian Government notes that funding is provided across various areas (Federal, State and education provider-level). The Australian Government respects that this provides autonomy to states, territories and individual education providers on decisions around funding allocation, therefore consistency of funded supports is not achievable.

Students must be provided with reasonable adjustments and learning resources to enable full participation in their education, on the same basis as students without a disability as described in the Standards. This may include preferences of learning materials and access to assistive technology. If the learning resource is not suitable for the student, the teacher is required to identify a suitable alternative through consultation with the student. We encourage that students,

families and education providers continue these discussions as the student progresses through their education journey, and prior to key transition periods.

**Actions taken by governments:**

The Australian Government did not agree to further action in this area.

**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.**

**2015 Australian Government response to Recommendation 14: Not agreed**

In order to further support tertiary students with disability, the Australian Government's Higher Education Disability Support Programme provides funding that partially reimburses the cost of educational support services and/or equipment for domestic university students with disability. Although the Australian Government provides funding to universities for research, teaching and learning activities, universities are autonomous institutions. The Australian Government has limited capacity to intervene in universities' internal decisions regarding funding and the provision of supports. The Australian Government recognises that there are expert groups which exist to support practices around accessibility of resources for students. These expert groups do not cover all levels of education. While the necessity of accessible resources for all is valid, the Australian Government believes that for recommendation 14, the types of learning resources available (such as textbooks and journals) are at the discretion of Australian and international publishers. The availability of learning resources which are accessible to individual student learning needs is a matter for education authorities and individual education providers. It is highly important and extremely relevant to have set learning materials readily available to **all** students, in all education settings. Educators can prepare themselves by analysing the curriculum and learning content prior to the commencement of the term/semester, and discussing adjustments with the student as described in the Standards.

**Actions taken by governments:**

The Australian Government did not agree to further action in this area.

## Appendix B – Review Methodology

The Review was conducted in 3 stages:

- Stage 1.            Scoping and design**
- Stage 2.            Public consultation**
- Stage 3.            Testing and refining**

### Stage 1: Scoping and Design

The scoping and design of the Review was informed by an initial round of consultations that helped shape the overall Review approach, including the Terms of Reference and the consultation strategy.

#### ***Australian Human Rights Commission***

The Australian Human Rights Commission's Disability Discrimination Commissioner, Dr Ben Gauntlett, provided early advice on the approach to the Review, and has continued to inform the Review throughout 2020. At the onset of the COVID-19 pandemic, Dr Gauntlett provided advice on how to respectfully proceed with the Review with consideration of the pressure the COVID-19 pandemic placed on the disability sector. Dr Gauntlett also contributed to 2 public webinars, consultations with peak disability bodies, and facilitated the Young People's Advisory Group meetings.

#### ***One-on-one consultations with peak bodies***

One-on-one virtual discussions were held with approximately 20 key peak bodies representing people with disability and educators. These meetings allowed the department to hear peak bodies' views on approaches to public consultation, with consideration given to the impact of COVID-19 pandemic restrictions and how this would affect the capacity and ability of people with disability and their support networks to contribute. The peak bodies were also asked about key areas of interest for the Review, and how the department could best connect with hard-to-reach individuals and communities.

#### ***State and territory reference group***

In recognition of the primary role states and territories have in delivering education, a reference group comprising state and territory senior officials was established. Members were nominated by the Australian Education Senior Officials Committee (AESOC) and the Skills Senior Officials' Network (SSON). The group was chaired by the Australian Government. Regular bilateral and multilateral meetings were held throughout 2020.

#### ***Australian Government agencies***

The department worked closely with the Attorney-General's Department and the National Indigenous Australians Agency, and consulted Australian Government agencies responsible for concurrent and upcoming reviews in the sector, including:

- The Department of Social Services (**National Disability Strategy**)
- The Department of Infrastructure, Transport, Regional Development and Communications (the **Disability Standards for Accessible Public Transport 2002**)
- The Department of Industry, Science, Energy and Resources (the **Disability (Access to Premises - Buildings) Standards 2010**)

### ***Advice on consultation with Aboriginal and Torres Strait Islander people***

The National Indigenous Australians Agency, the First Peoples Disability Network Australia and the National Aboriginal and Torres Strait Islander Principals Association were consulted on how to best engage Aboriginal and Torres Strait Islander communities, families and students with disability, and on issues of particular relevance to these communities.

## **Stage 2: Public Consultation**

Public consultations for the Review (Stage 2) were held from 16 July to 25 September 2020. During this period, the public were able to engage with and respond to the Review through formal submissions, webinars, focus groups, discussion boards, individual interviews, through several community visits and an online questionnaire. Throughout the consultation period, the Review was advertised widely through a range of digital and online channels, as well as through states and territories and by peak disability organisations.

### ***The Social Deck***

The department engaged a supplier, The Social Deck, to provide technical and logistical support for the consultation process. The Social Deck provided advice on the consultation design, conducted the consultation events in partnership with the department and key partner organisations, and provided the department with detailed reports and, where appropriate, transcripts. It also designed, built and hosted the online Consultation Hub.

### ***Consultation Hub***

The accessible online Consultation Hub was developed to house all key documents and information related to the Review and outline the ways that individuals and organisations could get involved. A total of 18,565 unique visitors accessed the Hub throughout the consultation period.

### ***Discussion papers***

The department released a discussion paper on 16 July 2020 that outlined the purpose and operation of the Standards, the Terms of Reference for the Review, and included a list of questions and discussion prompts for readers to consider.

A second discussion paper focused on early childhood education and care was released on 21 August 2020. This paper was developed in response to previous recommendations to consider extending the application of the Standards to child care providers. Its purpose was to assist the department to examine the extent to which families, educators and providers in this sector know about, understand and comply with their existing rights and responsibilities under the *Disability Discrimination Act 1992*.

To ensure that the Review was accessible and inclusive, the discussion papers were translated into Easy Read, Auslan and 11 community languages.

### ***Questionnaires***

To provide an alternative means of written contribution to the formal submission process, the department developed an online questionnaire which was available on the Consultation Hub. The questionnaire asked questions based on the discussion paper, and was targeted primarily at community members, parents, carers, educators, and others who were unlikely to make a formal submission. It was designed to be an accessible, flexible mode of participation in the Review. Individual stakeholders were still able to make a formal submission as well as complete the questionnaire.

The department developed a separate questionnaire to support engagement with the discussion paper on early childhood education and care.

### ***Consultation events***

National interactive webinars focusing on schools, educators, tertiary education and early childhood education and care took place in July and August 2020. The webinars featured guest speakers and hosts, including Dr Ben Gauntlett; former Disability Discrimination Commissioner, Mr Graeme Innes AM; Biripi woman and principal of Briar Road Public School, Ms Tammy Anderson; President of the Australian Primary Principals Association, Mr Malcolm Elliot; and President of the Australian Tertiary Education Network on Disability, Mr Anthony Gartner.

Audio-visual material was provided to enhance engagement and encourage a focus on student experiences. All webinars were made accessible with closed captioning services and live Auslan interpretation.

Eighteen focus groups and 4 discussion boards were held with targeted groups and provided opportunities to explore diverse experiences in greater depth. Twenty-one in-depth telephone interviews were used to access the experience of people in remote or regional locations, as well as other people who preferred to engage in this way. Participants were invited to express interest in participation through the Consultation Hub, and partner organisations were asked to promote and suggest participants.

### ***Young People's Advisory Group***

A Young People's Advisory Group was established as part of the Review in order to hear directly from young people with disability about their experiences in education. Participants were nominated by the state and territory reference group and disability peak organisations. Eleven young people with disability aged between 15 to 25 years from across Australia participated in these consultation meetings, chaired by Dr Ben Gauntlett.

### ***Consultations with organisations and agencies***

In addition to public facing consultation events, the department engaged with a range of national agencies, regulators and representatives of non-government education providers. These discussions helped the department to understand how the Standards are being implemented and how the Standards intersect with the broader regulatory architecture that governs different education sectors.

Additionally, 2 roundtable discussions were held, each attended by 20 national peak bodies representing people with disability and chaired by Mr Graeme Innes AM. An additional roundtable discussion was held with 6 peak bodies representing school principals, chaired by the department.

### ***Indigenous Education Consultative Bodies***

The department met with Indigenous Education Consultative Bodies on 17 August 2020 to discuss the experiences of Aboriginal and Torres Strait Islander students with disability in education. A second meeting took place on 5 November 2020 to discuss the findings from Review consultations, particularly those regarding the experiences of Aboriginal and Torres Strait Islander students with disability.

### ***ACECQA Consultations***

After undertaking a mapping exercise exploring the applicability of the Standards under the National Quality Framework, the Australian Children's Education and Care Quality Authority (ACECQA) was

tasked by Education Council to explore the possible implications of, and options for, extending the Standards to child care providers. ACECQA's consultations targeted approved providers, peak bodies, Inclusion Agencies and Inclusion Support professionals. These consultations ran in parallel with this Review, and the final report developed by ACECQA informed the findings and recommendations in this report.

A detailed list of consultation events can be found in Appendix C.

### **Consultation Design**

The following table details the feedback the department received through its initial scoping discussions, and how these considerations were reflected in the consultation process.

Feedback	How it was addressed
Consultation over a <b>reasonable timeframe</b> (several months).	<ul style="list-style-type: none"> <li>• Consultations for the Review commenced in April 2020, with public consultations occurring from July to September 2020.</li> </ul>
<b>Accessible to all parties</b> with an interest in contributing.	<ul style="list-style-type: none"> <li>• Participants could participate through a range of activities, from large online events to one-on-one phone interviews, in written, verbal, or video form.</li> <li>• Auslan interpreters and closed captioning were provided at all open consultations and included in all video materials.</li> <li>• Key documents were translated into Auslan, Easy Read, and 11 community languages.</li> <li>• As the majority of consultations took place online, participants could access forums from their preferred location.</li> <li>• Rural and regional areas were targeted with dedicated focus groups, and one-on-one telephone conversations. Existing networks of peak bodies were used to identify potential participants.</li> </ul>
<b>Safety of participants</b> from COVID-19 transmission.	<ul style="list-style-type: none"> <li>• Almost all consultations were held online, apart from a small number of targeted face-to-face consultations with Aboriginal and Torres Strait Islander communities where it was safe to do so.</li> </ul>
<ul style="list-style-type: none"> <li>• <b>Minimising burden</b> on participants and the sector in the context of the COVID-19 pandemic, and considering consultation fatigue.</li> <li>• A consultation approach that allows for people to engage in <b>a range of ways</b> depending on their preferences.</li> </ul>	<ul style="list-style-type: none"> <li>• Providing a range of ways to contribute including via: <ul style="list-style-type: none"> <li>○ Interactive webinars, targeted to sectors</li> <li>○ Traditional submissions, in written, audio or video form</li> <li>○ Online questionnaires</li> <li>○ Virtual focus group discussions</li> <li>○ Online discussion boards</li> <li>○ One-to-one telephone interviews</li> <li>○ Face-to-face consultation events</li> </ul> </li> <li>• These approaches allowed for a range of styles of communication: verbal, written, online, face-to-face, formal and informal, in groups and in private, and virtual and in person.</li> <li>• Extensions to the closure date for submissions were granted on request.</li> </ul>

Feedback	How it was addressed
<p>Recognising the <b>diversity of the disability community</b> and <b>leveraging existing networks</b>.</p>	<ul style="list-style-type: none"> <li>• Partner organisations facilitated engagement with specific groups, such as those from culturally and linguistically diverse backgrounds, and Aboriginal and Torres Strait Islander peoples.</li> <li>• Peak disability bodies were consulted on the design of public consultations to ensure specific needs of communities were met.</li> <li>• To provide space to explore diverse experiences in a targeted way, focus groups, interviews and discussion boards were held specifically for               <ul style="list-style-type: none"> <li>○ Culturally and linguistically diverse parents and carers</li> <li>○ Aboriginal and Torres Strait Islander educators</li> <li>○ Aboriginal and Torres Strait Islander students with disability and their families</li> <li>○ Parents and carers of students with Autism Spectrum Disorder and attention deficit hyperactivity disorder</li> <li>○ Students and youth</li> <li>○ Parents and carers of students with intellectual disability</li> <li>○ Young people with intellectual disabilities</li> <li>○ Newly arrived refugees and trauma survivors.</li> </ul> </li> </ul>
<p>Ensuring there is opportunity to hear <b>the voices of young people</b> separately to their parents/carers.</p>	<ul style="list-style-type: none"> <li>• Opportunities for young people to contribute separately from their parents, carers and educators, including through dedicated focus groups, the Young People's Advisory Group, and a discussion board.</li> </ul>
<p><b>Deliver face-to-face engagement</b> for specific groups that would benefit from this approach.</p>	<ul style="list-style-type: none"> <li>• The department partnered with the First Peoples Disability Network Australia to deliver face-to-face consultations with Aboriginal and Torres Strait Islander communities in a culturally appropriate way.</li> </ul>
<p>Respecting the <b>expertise</b> of peak bodies, advocacy groups, academics, education authorities and policy makers.</p>	<ul style="list-style-type: none"> <li>• Peak bodies were consulted throughout the Review process, and a dedicated discussion board for education professionals, providers and academics was facilitated.</li> <li>• Targeted consultations were undertaken with government and non-government education and regulatory bodies across all sectors to gain their insights and experiences.</li> </ul>
<p>Placing <b>the lived experiences of people with disability at the centre of the Review</b>.</p>	<ul style="list-style-type: none"> <li>• Consultation focused on hearing the voice of students with disability and their families.</li> <li>• The Young People's Advisory Group was established to provide a forum for young people to provide feedback on the conduct of the Review and its recommendations, and to share their personal experiences.</li> <li>• Focus groups were held for young people and separate to their educators and families.</li> <li>• A discussion board was held specifically for young people.</li> <li>• Young people's stories were presented in video vignettes during the webinars, and made available on the Consultation Hub, to highlight their centrality to considerations of the Standards and the Review.</li> </ul>

Feedback	How it was addressed
Ensuring <b>cultural sensitivity</b> in engagements with Aboriginal and Torres Strait Islander communities and culturally and linguistically diverse communities.	<ul style="list-style-type: none"> <li>The department consulted the National Indigenous Australians Agency, Indigenous Education Consultative Bodies, the First Peoples Disability Network Australia and the National Aboriginal and Torres Strait Islander Principals Association in the design of consultations, as well as partnering with the latter 2 organisations to undertake consultations.</li> <li>Targeted visual communications tools were developed to engage Aboriginal and Torres Strait Islander peoples with disability and their communities, through social media posts.</li> </ul>

### Stage 3: Testing and Refining

Analysis of all consultation input occurred in October and November 2020. Draft findings were presented to:

- State and territory governments through the Commonwealth-chaired reference group
- The Young People's Advisory Group
- The department's Indigenous Education Consultative Bodies
- National disability peak bodies
- National school principal associations
- Australian Government agencies, including: the Attorney-General's Department, the Department of the Prime Minister and Cabinet, the Department of Social Services, and the National Indigenous Australians Agency.

These stakeholders provided feedback which informed the final report and recommendations.

### Limitations of methodology

While the department sought to make the Review as accessible and comprehensive as possible, there were limitations on what the Review could achieve. The COVID-19 pandemic posed challenges for the Review, namely limiting the opportunity for face-to-face consultation. The department is also aware that consultation fatigue from concurrent reviews and inquiries, including Disability Royal Commission hearings and public consultations for a new National Disability Strategy, may have affected stakeholders' capacity to engage and participate in the Review. An extended consultation period was provided to support wide participation, noting this was constrained by the legislative requirement under the Standards to complete the Review in 2020.

Given the scope of the Review outlined in the Terms of Reference, the Review was unable to address and consider every issue raised throughout consultation events and formal submissions. The department heard about a range of issues that affect the ability of people with disability to access and participate in education, including issues with public transport and NDIS services and funding that, while out of scope, will inform broader policy thinking.

## Appendix C – Consultation activities

### Public webinars

Date	Event	Number of attendees
<b>23 July 2020</b>	Schooling webinar	378
<b>19 August 2020</b>	Educators webinar	354
<b>20 August 2020</b>	Tertiary webinar	227
<b>27 August 2020</b>	Early childhood education and care webinar	140

### Small group consultations

#### Focus groups

Date	Audience	Partner organisation	Number of attendees
<b>24 August 2020</b>	Educators (schooling)	The Social Deck	11
<b>24 August 2020</b>	Educators (schooling)	The Social Deck	13
<b>25 August 2020</b>	Educators and students (tertiary)	The Social Deck	8
<b>1 September 2020</b>	Educators – Aboriginal and Torres Strait Islander	First Peoples Disability Network Australia (FPDN)	3
<b>1 September 2020</b>	Parents and carers of children with Autism / Attention Deficit Hyperactivity Disorder	The Social Deck	7
<b>2 September 2020</b>	Parents – school-aged children with intellectual disability	Purple Orange	6
<b>2 September 2020</b>	Educators and students (VET)	The Social Deck	3
<b>3 September 2020</b>	Parents and carers of school-aged children in regional, rural or remote areas	Community Resource Unit	11
<b>14 September 2020</b>	Parents – school-aged children with disability	Children and Young People with Disability Australia (CYDA)	7
<b>14 September 2020</b>	Parents – school-aged children with disability	CYDA	7
<b>14 September 2020</b>	Young people – mixed	CYDA	8
<b>14 September 2020</b>	Culturally and linguistically diverse people	National Ethnic Disability Alliance	4
<b>15 September 2020</b>	Young people – mixed	CYDA	6
<b>16 September 2020</b>	Parents and Carers – ACT	The Social Deck	5
<b>22 September 2020</b>	Educators – Early Childhood	The Social Deck	3
<b>23 September 2020</b>	Parents – Early Childhood	CYDA	5
<b>24 September 2020</b>	Young people – intellectual disability and cognitive impairment	Purple Orange	7

Date	Audience	Partner organisation	Number of attendees
<b>28 September 2020</b>	Educators – Aboriginal and Torres Strait Islander	FPDN	1

### Young People's Advisory Group

Date	Event	Number of attendees
<b>15 September 2020</b>	Teleconference via Microsoft Teams	11
<b>3 November 2020</b>	Teleconference via Microsoft Teams	11

### Online discussion boards

Date	Audience	Number of attendees
<b>1-4 September 2020</b>	Education providers/professionals & academics	14
<b>8-11 September 2020</b>	Parents and carers	12
<b>8-11 September 2020</b>	Students with disability (and recent school leavers)	13
<b>15-18 September 2020</b>	Teachers, educators and education support workers	15

### Consultation with Aboriginal and Torres Strait Islander Communities

In conjunction with FPDN, 3 face-to-face events with Aboriginal and Torres Strait Islander students with disability and their families were held:

Date	Location	Number of attendees
<b>Week of 21 September 2020</b>	Regional NSW (Coffs Harbour, Armidale) and NT (Tennant Creek) community visits	69

Two meetings were held with the **Indigenous Education Consultative Bodies** on 17 August and 5 November 2020.

In addition to the focus groups, online discussion boards and face-to-face events, several telephone interviews were held where participants asked to contribute in that way.

## Peak body consultations

Between April and June 2020, the department held one-on-one initial consultations with the following peak disability bodies:

Organisation	Date
Association for Children with Disability	29 April 2020
Association of Heads of Independent Schools in Australia (AHISA)	1 May 2020
Australian Alliance for Inclusive Education (All Means All)	15 May 2020
Australian Federation of Disability Organisations	19 May 2020
Australian Federation of Specific Educational Learning Difficulties Associations (AUSPELD)	3 June 2020
Australian Primary Principals Association (APPA)	7 May 2020
Australian Secondary Principals' Association (ASPA)	1 May 2020
Australian Special Education Principals Association (ASEPA)	13 May 2020

Organisation	Date
Australian Tertiary Education Network on Disability	25 May 2020
Autism Aspergers Advocacy Australia	11 May 2020
Catholic Secondary Principals Australia (CaSPA)	25 May 2020
Children and Young People with Disability Australia (CYDA)	28 April 2020
Deafness Forum of Australia	4 May 2020
Disability Advocacy Network Australia (DANA)	4 May 2020
Down Syndrome Australia	6 May 2020
First Peoples Disability Network Australia	13 May 2020
Inclusion Australia	13 May 2020
National Mental Health Consumer and Carer Forum	13 May 2020
National Aboriginal and Torres Strait Islander Principals Association (NATSIPA)	28 May 2020

In addition to this, there was a roundtable discussion held on 7 August 2020 attended by 23 participants from the following 20 organisations:

Organisation
Association for Children with Disability (ACD)
Australian Alliance for Inclusive Education (All Means All)
Australian Centre for Disability Law
Australian Federation of Specific Educational Learning Difficulties Associations (AUSPELD)
Australian Human Rights Commission
Australian Tertiary Education Network on Disability (ATEND)
Autism Awareness Australia
Blind Citizens Australia
Children and Young People with Disability Australia (CYDA)
Deafblind Australia
Disability Advocacy Network Australia
First Peoples Disability Network Australia (FPDN)
Inclusion Australia
JFA Purple Orange
Mental Health Australia
National ADHD Consumer Forum
National Ethnic Disability Alliance (NEDA)
National Mental Health Consumer and Carer Forum (NMHCCF)
Regional Disability Advocacy Service
Women with Disabilities Australia (WWDA)

There was a follow up roundtable discussion held on 6 November 2020 attended by 22 participants from the following 20 organisations:

Organisation
ADHD Australia
Association for Children with Disability (ACD)
Australian Alliance for Inclusive Education (All Means All)
Australian Centre for Disability Law
Australian Federation of Specific Educational Learning Difficulties Associations (AUSPELD)
Australian Human Rights Commission
Australian Network on Disability (AND)
Australian Tertiary Education Network on Disability (ATEND)

Organisation
Autism Awareness Australia
Children and Young People with Disability Australia (CYDA)
Deaf Australia
Deafness Forum of Australia
Down Syndrome Australia
Inclusion Australia
JFA Purple Orange
Mental Health Australia
National Association of Australian Teachers of the Deaf
National Mental Health Consumer and Carer Forum (NMHCCF)
Vision Australia
Women with Disabilities Australia (WWDA)

## Consultations with sector representatives

One-on-one discussions were held with the following organisations:

Organisation	Date
Association of Children with Disability (ACD)	22 September 2020
Australian Children's Education and Care Quality Authority (ACECQA)	18 September 2020 9 October 2020
Australian Curriculum, Assessment and Reporting Authority (ACARA)	11 August 2020
Australian Disability Clearinghouse on Education and Training (ADCET)	25 August 2020
Australian Industry and Skills Committee (AISC)	22 September 2020
Australian Institute for Teaching and School Leadership (AITSL)	4 August 2020 14 October 2020
Australian Skills Quality Authority (ASQA)	5 August 2020
Children and Young People with Disability Australia (CYDA)	22 September 2020
Community Colleges Australia (CCA)	26 August 2020
Department for Education, South Australia	26 October 2020
Department for Innovation and Skills, South Australia	26 October 2020
Department of Education and Training, Victoria	13 October 2020
Department of Education, New South Wales	15 October 2020
Department of Education, Northern Territory	16 October 2020
Department of Education, Queensland	26 October 2020
Department of Education, Western Australia	21 October 2020
Department of Employment, Small Business and Training, Queensland	26 October 2020
Department of Training and Workforce Development, Western Australia	21 October 2020
Down Syndrome Australia	7 October 2020
Dr Deborah Price, Dr Deborah Green, University of South Australia (nominated by the Australian Council of Deans of Education)	24 September 2020
Early Childhood Intervention Australia (Victoria/Tasmania)	6 October 2020
Education Directorate, Australian Capital Territory	14 October 2020
Education Services Australia (ESA)	24 August 2020
Equity in Higher Education Panel (EHEP)	12 August 2020
Higher Education Standards Panel (HESP)	11 August 2020
Independent Higher Education Australia (IHEA)	11 August 2020
Independent Schools Australia (ISA)	14 August 2020

Organisation	Date
National Aboriginal and Torres Strait Islander Higher Education Consortium (NATSIHEC)	24 July 2020
National Catholic Education Commission (NCEC)	20 August 2020
National Schooling Resourcing Board (NSRB)	21 August 2020
PwC's Skills for Australia	15 September 2020
Queensland Advocacy Incorporated	15 October 2020
Queensland Collective for Inclusive Education	8 October 2020
RedHill Education Limited	22 September 2020
Skills Tasmania, Department of State Growth	16 October 2020
SkillsIQ	25 September 2020
TAFE Directors Australia (TDA)	4 August 2020
Tertiary Education Quality and Standards Agency (TEQSA)	18 August 2020
Training Accreditation Council of Western Australia (TAC WA)	10 August 2020
Universities Australia (UA)	17 August 2020
Victorian Registration and Qualifications Authority (VRQA)	22 July 2020

## Consultations with Peak Principal Associations

A roundtable discussion was held on 2 November 2020 with the following associations:

Organisation
Association of Heads of Independent Schools of Australia (AHISA)
Australian Government Primary Principals Association (AGPPA)
Australian Primary Principals Association (APPA)
Australian Secondary Principals' Association (ASPA)
Australian Catholic Schools Principals Association (ACPPA)
Catholic Secondary Principals Australia (CaSPA)

## Appendix D – Submissions

The 2020 Review of the *Disability Standards for Education 2005* received a total of 179 submissions. Those who gave permission for their submission to be published are listed below.

### Submissions received

Organisation / individual name
Able Australia
Action for People with Disability Inc.
ADHD Whisperer
Advocacy for Inclusion
Advocacy Law Alliance Inc.
Anonymous (1)
Anonymous (2)
Anonymous (3)
Anonymous (4)
Anonymous (5)
Ashman, Greg
Aspergers Victoria Inc.
Association for Children with Disability
Association of Independent Schools of NSW (AISNSW)
Australian Association for the Education of the Gifted and Talented
Australian Association of Christian Schools (AACS); Adventist Schools Australia (ASA); Christian Schools Australia (CSA)
Australian Association of Special Education (AASE)
Australian Association of Special Education NSW Chapter
Australian Association of Teachers of the Deaf (AATD) Queensland Inc.
Australian Centre for Disability Law
Australian Council of State School Organisations (ACSSO)
Australian Disability Clearinghouse on Education and Training (ADCET)
Australian Education Union
Australian Federation of Specific Educational Learning Difficulties Associations (AUSPELD)
Australian Government Primary Principals Association (AGPPA)
Australian Inclusive Publishing Initiative (AIPI)
Australian Library and Information Association (ALIA)
Australian Paediatric Society
Australian Parents Council (APC)

## Organisation / individual name

Australian Primary Principals Association (APPA)

Australian Special Education Principals' Association (ASEPA)

Australian Tertiary Education Network on Disability (ATEND)

Autism Goals

Autism Mentoring Community of Practice (AMCoP)

Ballarat Specialist School - Leadership Team

Ballarat Specialist School - School Council

Barnes, Carol

Beruschi, Raelene

Blackman, Kane; Blackman, Sarah

Blind Citizens Australia

Bobby

Bond University

Canberra Community Law

Carr, Lisa

Casaceli, Gina

Catholic Education Commission Victoria

Catholic Education Office, Diocese of Wollongong

Catholic Education Western Australia

Catholic School Parents Australia

Catholic Schools NSW

Centre for Inclusive Design

Centre for Inclusive Education, Queensland University of Technology

Children and Young People with Disability Australia (CYDA)

Christian Heritage College

Code REaD Dyslexia Network

Cologon, Dr Kathy

Commissioner for Children and Young People South Australia

Commissioner for Children and Young People Western Australia

Community Child Care Association

Cunnett, Tamara

de Bruin, Dr Kate

Deaf Australia

## Organisation / individual name

Deaf Society and Deaf Services Ltd.

Deaf Victoria

Deafblind Australia

Deakin University

Developmental Disability WA

Diabetes Victoria

Disability Council NSW

Disability Discrimination Legal Service Inc.

Down Syndrome Australia

Duncan, Jill

Dyslexia Victoria Support

Education Services Australia

Ellis, Professor Katie; Kent, Professor Mike; Pitman, Associate Professor Tim

Equity Practitioners in Higher Education Australasia (EPHEA)

Family Advocacy

Federation University

Fehr Pitt, Nicole

Franklin, Greg

Gilmour, Megan

Goodstart Early Learning

Harpur, Dr Paul

Hartley, Dianne

Heads Together for ABI (Acquired Brain Injury) Ltd.

Holly, Christina

Hudson, Judith

Hutchinson, Samantha

Inclusion Australia

Inclusive Schools Australia

Independent Education Union of Australia

Independent Schools Australia

Institute of Special Educators (InSpEd)

Isolated Children's Parents' Association of Australia

Jabri Markwell, Rita

## Organisation / individual name

Knox City Council

KU Children's Services

KU Children's Services - Inclusion Development Fund Manager and Inclusion Agency Programs

La Trobe University

Lifestart

Maclean, Angela

Marino, Jessica

Melbourne Graduate School of Education

National Aboriginal Community Controlled Health Organisation (NACCHO)

National Association of Australian Teachers of the Deaf (NAATD)

National Catholic Education Commission (NCEC)

National Centre for Student Equity in Higher Education (NCSEHE)

National Disability Coordination Officer - Centre for Disability Studies

National Disability Services

National Mental Health Consumer and Carer Forum (NMHCCF)

National Outside School Hours Services Alliance (NOSHSA)

Occupational Therapy Australia

Pavlovich, Sue

People with Disabilities Western Australia

Phillips, Julie

Public Interest Advocacy Centre

Queensland Advocacy Incorporated (QAI)

Queensland Association of Special Education Leaders (QASEL)

Queensland Catholic Education Commission (QCEC)

Queensland Law Society

Queensland University of Technology

Ralston, Michelle

Reimagine Australia

Round, Dr Penny

SANE Australia

Save Our Sons Duchenne Foundation

SDN Children's Services

Sek, Khin

## Organisation / individual name

South Metropolitan TAFE (WA)

South Pacific Educators in Vision Impairment (SPEVI)

Speech Pathology Australia

SPELD (Specific Education Learning Difficulties) Victoria

Subban, Dr Pearl

Swan, Sarah

Swinburne University of Technology

Sydney University Postgraduate Representative Association (SUPRA)

Syndromes Without A Name (SWAN) Australia

University of Melbourne Student Union - Disabilities Department

University of Wollongong

UNSW Sydney Special and Inclusive Research Group (SIERG)

Victorian Council of Social Service (VCOSS)

Vision Australia

Visionary Design Development

Western Australian Council of State School Organisations (WACSSO)

Wilson, Andrew

Wyndham City Council

Yellow Ladybugs

Youth Disability Advocacy Service (YDAS)

YWCA Canberra

## Appendix E – References

Australian Bureau of Statistics (2019), *2018 Survey of Disability, Ageing and Carers Australia* (Cat 4430.0)

Australian Human Rights Commission (2012) [Federal Discrimination Law: Chapter 5 The Disability Discrimination Act](#)

Australian Institute for Teaching and School Leadership (February 2011), *Australian Professional Standards for Teachers*

Australian Institute for Teaching and School Leadership (2014), *Australian Professional Standard for Principals*

Avery, S. (2018), *Culture is Inclusion: A narrative of Aboriginal and Torres Strait Islander people with disability*

Commonwealth of Australia (1992), [Disability Discrimination Act 1992](#)

Commonwealth of Australia (2005), [Disability Standards for Education \(2005\) plus Guidance Notes](#)

Commonwealth of Australia (2015), [Higher Education Standards Framework \(Threshold Standards\) 2015](#)

Commonwealth of Australia (2015), [Standards for Registered Training Organisations \(RTOs\) 2015](#)

Education Council (December 2019), *Alice Springs (Mparntwe) Education Declaration*

National Report on Schooling in Australia (2020), [School Students with Disability](#) data portal

*Purvis v State of New South Wales (Department of Education and Training)* (2003) 217 CLR 92

Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (October 2020), *Interim Report*

Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (2020), [Transcript – 6 November 2019](#), Judith Fenoglio, Principal of Ingham State High School

Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (2020), [Transcript Day 3 – Public hearing 7, Brisbane](#), Dr Kate de Bruin, Monash University

*Sklavos v Australasian College of Dermatologists* (2017) 247 ALR 78

Teacher Education Ministerial Advisory Group (TEMAG) Report (2014) *Action Now: Classroom Ready Teachers*

United Nations (2006) [United Nations Convention on the Rights of Persons with Disabilities](#)

*Watts v Australian Postal Corporation* (2014) 311 ALR 680

## Appendix F – List of terms

Term	Definition
<b>ACECQA</b>	Australian Children’s Education and Care Quality Authority
<b>ADCET</b>	Australian Disability Clearinghouse on Education and Training
<b>AESOC</b>	Australian Education Senior Officials Committee
<b>AHRC</b>	Australian Human Rights Commission
<b>AITSL</b>	Australian Institute for Teaching and School Leadership
<b>AQF</b>	Australian Qualifications Framework
<b>AGD</b>	Australian Government Attorney-General’s Department
<b>CALD</b>	Culturally and linguistically diverse
<b>DDA</b>	<i>Disability Discrimination Act 1992</i>
<b>DESE</b>	Australian Government Department of Education, Skills and Employment
<b>Disability Royal Commission</b>	Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability
<b>DSP</b>	Disability Support Program
<b>ECEC</b>	Early childhood education and care
<b>ECPG</b>	Early Childhood Policy Group
<b>HESF</b>	Higher Education Standards Framework
<b>Indigenous</b>	Encompassing all Australian Aboriginal and Torres Strait Islander peoples
<b>ISP</b>	Inclusion Support Program
<b>NCCD</b>	Nationally Consistent Collection of Data on School Students with Disability
<b>NDCO</b>	National Disability Coordination Officer Program
<b>NIAA</b>	National Indigenous Australians Agency
<b>NDIS</b>	National Disability Insurance Scheme
<b>NQF</b>	National Quality Framework
<b>RTO</b>	Registered Training Organisation

Term	Definition
<b>SES</b>	Socioeconomic status
<b>SRS</b>	Schooling Resource Standard
<b>SSON</b>	Skills Senior Officials' Network
<b>SSOs</b>	Skills Service Organisations
<b>TAFE</b>	Technical and Further Education
<b>Teacher Standards</b>	Australian Professional Standards for Teachers
<b>TEQSA</b>	Tertiary Education Quality and Standards Agency
<b>The department</b>	The Australian Government Department of Education, Skills and Employment
<b>The Standards</b>	<i>Disability Standards for Education 2005</i>
<b>UDL</b>	Universal Design for Learning
<b>UN CRPD</b>	United Nations Convention on the Rights of Persons with Disabilities
<b>VDC</b>	Vulnerable and Disadvantaged Children Subgroup
<b>VET</b>	Vocational education and training
<b>WCAG</b>	Web Content Accessibility Guidelines

