

## Review of the loading for students with disability 2019–public submission

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### Catholic Education Commission of Victoria

Stakeholder type: Government

Jurisdiction: National

### Submission

#### Introduction

The Catholic Education Commission of Victoria (CECV) welcomes the opportunity to make this submission to the National School Resourcing Board (NSRB) on review of funding for students with disability (SWD). This submission presents CECV views and recommendations as part of five overarching arguments:

- 1 Current funding arrangements undermine school choice for students with disability.
- 2 Funding for students with disability could sit outside the Schooling Resource Standard model, and be subject to greater accountabilities.
- 3 School contextual factors impact adjustments for students with disability and their cost.
- 4 The administrative workload related to the NCCD is onerous, should be fully costed and must be included in loading values.
- 5 The NCCD submitted by schools should be transparent.

The sections below expand on these themes.

#### **1. Current funding arrangements undermine school choice for students with disability**

Australian Government policy seeks to enable SWD to access education on the same basis as a student without a disability.<sup>1</sup> As part of this objective, the Australian Government should promote school choice for SWD – especially the choice of a school education in a mainstream school.

Yet current arrangements undermine choice through differential funding arrangements for SWD based on the type of non-government school.

In particular:

- SWD in mainstream non-government schools have their ‘base’ funding entitlement discounted by ‘capacity to contribute’
- The exact same student, in a special<sup>2</sup> non-government school or a government school attracts the full rate of base funding.

This anomaly effectively penalises parents who wish to enrol a child with disability in a mainstream non-government school, rather than a government school or a special non-government school. Under current arrangements, in 2019, the exact same SWD can attract up to \$11,400 more in government funding if they

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<sup>1</sup> See *Disability Standards for Education 2005*

<sup>2</sup> This term refers to both special schools and special assistance schools.

attend a special non-government school (or a government school) instead of a mainstream non-government school.<sup>3</sup>

This difference can make it difficult for mainstream non-government schools to accommodate students who require substantial and extensive adjustments. The inevitable impact is that SWD with high needs are pushed out of mainstream non-government schools. This is despite the fact that inclusive education for SWD in mainstream educational settings have been found to have many benefits. For example, there is evidence that:<sup>4</sup>

- SWD who attend mainstream schools demonstrate better academic and vocational outcomes when compared to students who are educated in segregated settings
- SWD who attend mainstream schools have been found to score higher on achievement tests and perform closer to grade average than students who are in non-inclusive settings
- Inclusion results in a more positive sense of self and self-worth, and more advanced social skills – both for students who do and do not experience disability.

This failing needs to be addressed urgently. The solution is to exempt from ‘capacity to contribute’ all students who would be eligible to enrol in a special school, or special assistance school. (To simplify this, students identified as receiving ‘substantial’ or ‘extensive’ adjustments could perhaps qualify for this exemption.)

#### **CECV recommendation**

*Students with disability who are eligible to enrol in a special school or special assistance school should be exempt from ‘capacity to contribute’ if they enrol in a mainstream non-government school.*

## **2. Funding for students with disability could sit outside the Schooling Resource Standard model, and be subject to greater accountabilities**

Under current funding arrangements, base funding and loading amounts within the SRS model are provided to schools as part of a ‘global budget’, with schools able to exercise discretion over how funds are spent. This is consistent with a shift towards funding ‘outcomes’ rather than inputs. The outcome sought by the SRS model is for students to achieve NAPLAN scores in Reading and Numeracy that are above National Minimum Standards.

A further reason why it is appropriate for funding from the SRS model to be part of a ‘global budget’ is that there are fundamental problems with the SRS model, meaning that the base funding and loading amounts are not evidence-based and are not calibrated to the right outcomes. This is shown in a CECV report previously provided to the NSRB (see *Refreshing the Schooling Resource Standard funding model*, which was submitted to the NSRB as part of its review of needs-based funding arrangements).

Funding for SWD is profoundly different from other elements of the SRS model. This is for several reasons.

- Funding for SWD targets different outcomes than the SRS model overall. Through the NCCD, the SWD loading seeks to fund adjustments ‘to enable a SWD to access and participate in education on the same basis as other students’.<sup>5</sup> Meanwhile, the education outcomes that underpin the SRS model (student achievement in NAPLAN above National Minimum Standards) are not relevant to many SWD with substantial or extensive adjustments, which may be exempted from NAPLAN tests.

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<sup>3</sup> This difference applies for secondary students in non-government schools with a SES score of 125 or above (where capacity to contribute is determined to be 80% of base funding).

<sup>4</sup> Cologon, Kathy 2013, *Inclusion in Education: Towards Equality for Students with Disability*, Issues Paper, Children With Disability Australia, September.

<sup>5</sup> See <https://www.nccd.edu.au/wider-support-materials/step-1-there-adjustment>

- Funding entitlements for SWD are calculated in a manner that is fundamentally different from other loadings in the SRS model. The other loadings are based on *average*, estimate cost burdens related to different school/student characteristics that *tend* to cause disadvantage. In contrast, funding for SWD is directly linked to specific, identified students within schools and the adjustments that schools claim they are already making for those students.
- Under the *Disability Discrimination Act 1992* and Disability Standards for Education 2005, schools are legally required to take reasonable steps to ensure that a SWD is able to participate in courses or programs, and use facilities and services, on the same basis as a student without a disability.<sup>6</sup> There are no corresponding requirements for the other school/student characteristics that tend to cause disadvantage, and thereby attract loadings in the SRS model.

These considerations suggest that funding for SWD does not truly belong within the SRS model, and could be provided separately through a targeted program.

They also suggest that funding for SWD should be subject to more stringent accountabilities than other funding categories within the SRS model. School authorities could be required to demonstrate that SWD funding has been allocated towards programs for SWD (while retaining flexibility for school authorities to vary funding for each SWD based on their specific needs).

There may also be a case for the Australian Government to audit expenditures of SWD funding at the school level to ensure it is spent on SWD.

If funding for SWD is subject to more accountabilities, then this may also require SWD funding to be extracted from the SRS model due to complexities associated with transition arrangements.<sup>7</sup>

#### **CECV recommendation**

*The government should consider funding students with disability through a targeted program, rather than the SRS model, with greater accountabilities then applied to schools and school systems over how that funding is allocated and spent.*

### **3. School contextual factors impact adjustments for students with disability and their cost**

Under current arrangements, school context can impact adjustments for SWD, their cost and the use of NCCD to determine SWD loadings.

This can occur because there are **economies of scale** in meeting the needs of SWD:

- A school with a high number of SWD is typically able to meet the needs of these students at lower cost (per-student) than a school with a lower number of SWD.
- A school where students have SWD with similar disabilities is typically able to meet the needs of these students at lower cost (per-student) than a school with SWD that have diverse disabilities.

For example, in its 2016 report on additional resources for SWD, PricewaterhouseCoopers (PwC) found that:<sup>8</sup>

<sup>6</sup> See *Disability Standards for Education 2005*

<sup>7</sup> Due to transition arrangements, the SWD loading that schools are estimated to receive can differ significantly based on the total government funding a school received in 2017 (relative to its SRS funding entitlement).

<sup>8</sup> PricewaterhouseCoopers 2016, *2016 NCCD Continuous Quality Improvement Project: Additional Resourcing, Final Report*, Report to the Australian Government Department of Education and Training, March, p17

*Schools with a higher proportion of students with disability were found to have lower per student costs because of economies of scale in the provision of educational adjustments. The average proportion of students with disability (over enrolment) in the mainstream school sample was 10.9 per cent. For every 1 per cent increase in the proportion of students with disability at a school, the average per student adjustment cost declines by 1.7 per cent.*

These cost differences arise because of efficiencies in staff training, in learning materials, in the use of specialised support staff and, increasingly, in the cost of systems and processes in relation to administration.

In practice, this typically means that per-student costs are higher in mainstream primary schools than in other school types (e.g. special schools or secondary schools). Costs are especially high in small, mainstream primary schools.

At present the SWD loading does not take into account SWD density (or concentration) in schools. Due to the economies of scale noted above, this places schools with few SWD at a significant disadvantage in terms of their financial capacity to make adjustments to meet the needs of SWD compared to other schools with higher numbers of SWD. In turn, this promotes the concentration of SWD in schools. As outlined in section 1, this is not desirable as there are significant benefits from including SWD in mainstream school settings with students who do not experience disability. This issue could be addressed by including a school density factor in the SWD loading.

Catholic education is also concerned that current arrangements promote a **school resourcing bias**, under which students in highly resourced schools receive more SWD funding. This concern stems from the NCCD methodology, which measures student 'need' in a way that is conditional on school resources. The NCCD submitted by schools varies with all of the following factors:

- The assessed needs of students (which may vary based on teacher judgment)
- The financial capacity of schools to make adjustments. It is a fact that schools with more resources have greater capacity to make the adjustments they consider their students need. Moreover, in high-fee schools, parents have greater expectations that any adjustments they consider necessary for their children will be made by the school.
- The financial capacity of schools to dedicate resources towards the administrative workload associated with the NCCD.

The second and third factors noted above raise the prospect that SWD funding will favour highly resourced schools. The SWD funding allocated to schools will be regressive; schools could receive more public funding for SWD as their private income (and thus their capacity to make adjustments for SWD) increases.

This conceptual bias in the NCCD methodology in favour of highly resourced schools is backed by evidence. For example:

In a recent survey of CECV schools on the NCCD for 2019<sup>9</sup>, 83% of school stated that they would make more adjustments to meet the needs of their students if they had greater resources<sup>10</sup>. Similarly, 21% of schools stated that the administrative workload related to the NCCD deterred them from including students in the

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<sup>9</sup> The CECV surveyed all CECV schools on the 2019 NCCD in early August 2019.

<sup>10</sup> CECV schools were asked: "If your school had more resources, would it be likely to make more adjustments to meet the functional needs of students with disability at your school?" The CECV received 250 responses, of which 207 were "yes", 11 were "no" and 32 were "maybe".

NCCD (while a further 16% of schools stated that this *may* have occurred)<sup>11</sup>. Both of these results directly imply that schools would receive more SWD funding under the NCCD if they had greater resources.

In recent NCCD workshops<sup>12</sup>, it was observed that ‘many participants reported that the NCCD was competing for limited time and resources, and they felt they did not have enough time to engage thoroughly with data collection’. Many participants also reported that the NCCD ‘is seen as extra work to be completed on top of core responsibilities, and without appropriate resources’. This suggests schools with more staff are better able to cope with NCCD requirements.

Under the NCCD, there has been a large increase in the SWD reported in some highly-resourced independent schools, compared to previous arrangements. In the NCCD for 2017 this has occurred, for example, in Tintern Grammar (Ringwood East), St Michael’s Grammar (St Kilda), Carey Baptist Grammar (Kew), Trinity Grammar (Kew) and Scotch College (Swanbourne). This is shown in estimates previously released by the CECV.<sup>13</sup>

This prospect of a bias in the NCCD towards highly resourced schools undermines the integrity of the NCCD, the SWD loading and the SRS model itself. There is an urgent need to investigate this bias.

#### **CECV recommendations**

*Funding for students with disability should be subject to a school density factor, which recognises that the per-student cost of meeting the needs of students with disability is inversely correlated to the number of students with disability enrolled in a school.*

*The government should research the extent school resources may be impacting the NCCD. Detailed student-level comparisons should be made of the NCCD submitted by highly resourced (mainstream) schools and lower-resourced schools, to establish whether, due to the NCCD methodology, students that have similar needs receive more adjustments (and therefore more SWD funding) in highly resourced schools.*

#### **4. The administrative workload related to the NCCD is onerous, should be fully costed and must be included in loading values**

The administrative workload related to the NCCD under current arrangements is becoming very onerous. The latest templates that schools are being asked to trial will require them to document a wide range of evidence to support the inclusion of a student in the NCCD, such as:

- Evidence of assessed individual need – including medical diagnosis (where applicable), Individualised Learning Plan, formative or summary assessments, parental reports, records of meetings and notes by teachers or teacher aides
- Evidence adjustments are being provided to the student to address their individual needs based on their disability – including Individual Learning Plans, records of meetings, teaching notes and observations, adjustments to timetables, adjusted learning materials, evidence of outside- classroom activities, Health Action Plans, invoices for external services and others

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<sup>11</sup> CECV schools were asked: “If your school had more resources, would it be likely to make more adjustments to meet the functional needs of students with disability at your school?” The CECV received 250 responses, of which 52 were “yes”, 157 were “no” and 41 were “maybe”.

<sup>12</sup> Urbis 2019, *Nationally Consistent Collection of Data – Gap Analysis Workshop: Final Report*, Prepared for the Department of Education and Training, March, page 10.

<sup>13</sup> See <https://www.cem.edu.au/CatholicEducationMelbourne/media/Media- Releases/Documentation/290518-CECV-Media-Release-NCCD-SWD-funding.pdf>

- Evidence of consultation and collaboration with the student and/or associate – including signed and dated records of meetings with the student and/or guardian, and correspondence between the school and the student and/or guardian.

The workload has increased significantly since the commencement of the NCCD. In particular, there has been a proliferation of new requirements imposed on non-government schools, as well as school system authorities such as the CECV<sup>14</sup>, since it was announced in May 2017 that the NCCD would be used for funding purposes.

The administrative requirements placed on schools by the NCCD do not vary with the level of adjustment provided, and thus the loading students receive. The same evidence is required to include a student as receiving 'quality differentiated teaching practice' as applies for students receiving an 'extensive' adjustment. This contradicts the fundamental regulatory principle of proportionality.<sup>15</sup>

It is not surprising that the Australian Government has expanded these administrative requirements. There are many reasons to suggest that data collected under the NCCD requires significant professional learning by school staff, and data validation, evidence and assurance activities:

To truly provide 'consistent' data, the NCCD methodology supposes that hundreds of thousands of school staff across Australia have both the incentive and the capability to assess student needs in exactly the same way, and make consistent adjustments for the same level of student need. (There is no evidence to suggest any of these preconditions apply<sup>16</sup>)

The NCCD methodology is conceptually biased in favour of highly resourced schools (particularly as the administrative workload related to the NCCD increases) (see section 3)

The use of NCCD for funding purposes has established a clear incentive for school staff to 'game' the NCCD in order to maximise funding to their school. Meanwhile, the nature of the NCCD methodology makes it difficult to identify and sanction such 'gaming'

As stated by the previous Education Minister, the data collected under the NCCD to date (while improving) 'fails a basic credibility test'.<sup>17</sup>

In moving away from a data collection method that relied on independent medical assessment, towards one that largely relies on teacher judgment, the Australian Government selected a methodology that requires significant professional learning, and data validation, evidence and assurance (which has also required new Information and Communication Technology systems to collect and store data and evidence). The Australian

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<sup>14</sup> Under NCCD guidelines, school system authorities such as the CECV are responsible for moderating school data. This is an additional burden placed on non-government school systems as it does not apply for independent schools, while government systems are only 'encouraged' to 'adopt' the evidentiary requirements placed on non-government schools.

<sup>15</sup> Under this principle, regulation should be proportional to the issue being addressed and the risks. The key risk with the SWD loading under the NCCD is that students will be misclassified and government funding will be misallocated. Given the SWD loading varies based on their level of adjustment, there is a clear case to differentiate administrative requirements placed on schools with the level of adjustment.

<sup>16</sup> A series reports, over a number of years, have observed there are large differences in capability among school staff in relation to the NCCD. Moreover, in some government schools (e.g. in Victoria), state-based processes are used to allocate SWD funding not the NCCD. This gives staff in those schools little incentive to undertake the NCCD rigorously, particularly given the high administrative workload related to the NCCD.

<sup>17</sup> The previous Education Minister, Simon Birmingham, was quoted as stating the NCCD 'fails a basic credibility test' in Morton, Rick, 'Student disability report "fails credibility test"', *The Australian*, 21 December 2016.



Government's considered and deliberate policy choice has thereby imposed significant administration costs on schools.

It is the Australian Government that should bear the administrative costs its decision has thus imposed on schools. A failure to do this would:

- Require schools to divert resources from other activities in order to complete the administrative workload related to the NCCD.
- Reinforce the conceptual bias in the NCCD in favour of highly resourced schools, which have the most capacity to accommodate the additional costs that the new data collection method imposes on schools.

The administrative workload imposed on schools by the NCCD creates unfortunate trade-offs for school staff. As the workload is significant, it must come at the expense of other staff activities or staff personal time. There is already evidence that this administrative workload has a 'crowding out' effect, without necessarily improving outcomes for SWD or other students.

- In recent workshops, a large number of participants reported that the NCCD seemed more focussed on data collection processes than improved student outcomes and student-centred learning.<sup>18</sup>
- Many CECV schools advise that the administrative workload related to the NCCD has required changes to school operations. For example, in a recent survey of CECV schools on the 2019 NCCD<sup>19</sup>:

83% of schools stated that staff had been provided with extra time specifically to complete administrative duties related to NCCD.<sup>20</sup>

74% of schools stated that the administrative workload related to the NCCD has required their school to shift resources away from other activities.<sup>21</sup>

33% of schools stated that the administrative workload related to the NCCD has reduced the resources available for their school to meet the functional needs of SWD (while a further 18% of schools stated that this may have occurred).<sup>22</sup>

As part of this, the administrative duties required for the NCCD have forced some Catholic schools in Victoria to hire new staff, and other schools to reclassify teacher aides to a higher level, increasing staffing costs.

This growing workload is also placing more pressure on school staff, causing higher turnover rates of Learning Diversity Leaders (who are primarily responsible for the NCCD within schools). In CEM, the number of Learning Diversity Leaders who were new or transferred into this role grew from 33 in 2017 to 77 in 2019. This figure is expected to be higher again in 2020.

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<sup>18</sup> Urbis 2019, *Nationally Consistent Collection of Data – Gap Analysis Workshop: Final Report*, Prepared for the Department of Education and Training, March, page 6.

<sup>19</sup> The CECV surveyed all CECV schools on the 2019 NCCD in early August 2019.

<sup>20</sup> CECV schools were asked: "For the 2019 data collection, have staff been provided with extra time specifically to complete administrative duties related to NCCD?" The CECV received 250 responses, of which 207 were "yes", 34 were "no" and 9 were "maybe".

<sup>21</sup> CECV schools were asked: "Has the administrative workload related to the NCCD required your school to shift resources away from other activities?" The CECV received 250 responses, of which 185 were "yes", 42 were "no" and 23 were "maybe".

<sup>22</sup> CECV schools were asked: "Has the administrative workload related to the NCCD reduced the resources available for your school to meet the functional needs of students with disability?" The CECV received 249 responses, of which 83 were "yes", 121 were "no" and 45 were "maybe".

Critically, the current values for the SWD loading do not take into account the administrative burden placed on schools in relation to the NCCD. Our understanding is that these values were based on data collected by PricewaterhouseCoopers (PwC) in relation to the 2015 NCCD<sup>23</sup>. In that collection year there were minimal administrative requirements placed on schools to justify the data they submitted. All of the requirements stated above are essentially new.

The administrative workload related to the NCCD as at 2019 must therefore be properly costed and added to the SWD loading. That workload should be treated as a regulatory burden imposed on schools by the Australian Government, and its cost should be estimated using standard methodologies for costing regulatory impacts (e.g. as required in Regulatory Impact Statements). All increases in this administrative workload in future should also be costed and reflected in loading values. In addition to helping schools meet the cost of the NCCD, this would encourage regulatory requirements to be the minimum necessary to achieve the desired outcomes.

A final point to make about NCCD audits is the conflict of interest in PwC carrying out audits. If PwC carries out school audits this will effectively place PwC in a position whereby it will be performing audits, using an audit process and tools it has itself designed. As PwC would effectively be auditing its own work it could not be considered an independent party in the audit process. This is a significant audit risk and is unacceptable. If PwC disagrees then the matter should be raised with the Auditing and Assurance Standards Board and Chartered Accountants Australia and New Zealand.

#### **CECV recommendations**

*Consistent with the principle of 'proportionality', administrative requirements placed on schools, and non-government school systems, in relation to the NCCD should vary with loading values.*

*Requirements should be less onerous for students with 'supplementary' adjustments than those for students with 'substantial' and 'extensive' adjustments.*

*The administrative workload related to the NCCD should be treated as a regulatory burden imposed on schools, and non-government school systems, by the Australian Government due to its choice of data collection methodologies. This regulatory burden should be fully costed in accordance with Australian Government requirements for Regulatory Impact Statements.*

*The estimated cost of the administrative workload related to the NCCD should be added to loading values, to deter outcomes whereby this workload displaces other school activities and/or SWD funding for schools partly reflects their capacity to fulfil administrative requirements.*

*All increases in the administration workload related to the NCCD over time should be fully costed, in accordance with requirements for Regulatory Impact Statements, and the estimated cost should be added to SWD loading values.*

*In accordance with standard audit protocols, PricewaterhouseCoopers should be excluded from carrying out NCCD audits given its involvement in the development of the audit process and tools.*

#### **5. The NCCD submitted by schools should be transparent**

At present the NCCD is subject to high levels of confidentiality. Only data that is highly aggregated is publicly released. This excludes any school-level data.

This confidentiality undermines transparency and accountability. It is also inconsistent with the treatment of other school-level data that is used for funding purposes. For example, for each school, the *My School* website

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<sup>23</sup> PricewaterhouseCoopers 2016, *2016 NCCD Continuous Quality Improvement Project: Additional Resourcing, Final Report*, Report to the Australian Government Department of Education and Training, March.



shows enrolments of Aboriginal and Torres Strait Islander (ATSI) students and enrolments by Socio-Educational Advantage (SEA) quartile. That data is shown even where the percentage of school enrolments is very low (thereby potentially allowing students to be identified).

The NCCD submitted by schools should be treated similarly. The *My School* website should show, annually for each school, its overall percentage of students who receive the SWD loading (that is, combined enrolments of students who receive 'supplementary', 'substantial' and 'extensive' adjustments based on the NCCD). The community should be provided this information. If there are concerns about confidentiality if a school has a low percentage of funded SWD, then this could be shown as "less than 5 per cent" (or similar) (even though this is not done for ATSI students or SEA quartile data).

**CECV recommendation**

*School enrolments of students who receive the loading for students with disability should be disclosed on the My School website. A single percentage figure should be shown, relating to all students who receive 'supplementary', 'substantial' and 'extensive' adjustments at the school according to the NCCD methodology.*