



Submission to the 2020 Review of the Disability Standards for Education 2005

To the Department of Education, Skills and Employment

September 2020

Acknowledgments

Inclusion Australia acknowledges the traditional owners of the land on which this publication was produced. We acknowledge the deep spiritual connection to this land of Aboriginal and Torres Strait Islander peoples. We extend our respects to community members and Elders past, present and emerging.

Inclusion Australia (NCID)

Inclusion Australia, previously the National Council on Intellectual Disability (NCID), is the national voice for Australians with intellectual disability. We bring together groups across Australia who are connected to people with intellectual disability and who share the vision of inclusion in all parts of Australian life.

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Background

Funding and time constraints mean Inclusion Australia (IA) has not been able to undertake consultation with people with intellectual disability, their family members, or advocates in preparing this submission. IA has prepared a case study highlighting some of the challenges faced by people with intellectual disability in educational settings. It draws on experiences of two students, each with a mild to moderate intellectual disability, both in the same year at the same non-government school and who were finishing high school including studies at a local TAFE.

Overview of participation rates in education of students with disability

Recent research tells us that people with disability attend primary and secondary school at a similar rate to people without disability with 90% enrolled¹. The vast majority of students with disability (86%) attend a mainstream school but 14% go to a special or specialist school²

While the number of students with disability attending school is comparable to students without disability, in all other areas there are major differences. These include:

- 32% of people aged 20 and over with disability have completed Year 12 compared to 62% without disability.³
- 25% of people aged 20 and over with severe or profound disability have completed Year 12.⁴
- 10% of people aged 15–64 with disability are studying for a non-school qualification compared to 15% without disability.⁵

Of particular concern is that, according to data from the ABS, the number of people with disability who have completed Year 12 has declined from 36% in 2012 to 32% in 2018.⁶ While the data highlights the numbers of students with disability, there is a lack of consistency – for example, in 2019 the Australian Institute of Health and Welfare (AIHW) reported that 10 percent of all school students have a disability⁷ while the Nationally Consistent Collection of Data on School Students (NCCD) stated that 20% of Australian school students receive an adjustment due to disability in the same year⁸.

Inclusion Australia is most concerned that available data does not tell us the precise numbers of students with intellectual disability. Independent research commissioned by IA could find no publicly available information, including on the Department of Education, Skills and Employment (DESE) website, that provided data on the number of people with intellectual disability in mainstream education (public or private), segregated settings, or being home schooled.

The absence of data tracking the precise numbers of students with intellectual disability in the education system makes it impossible to identify, measure and monitor the impact of the *Disability Standards for Education 2005*.

Case Study - Hannah, Harry and Chris⁹ and Years 11 and 12

*"I am worn to the ground. I am a strong, middle class and educated person,
but I am totally defeated by this system."*

More Australian families make choices between public and private schools than in any other OECD country. School choice is an essential component of the Australian educational landscape. In 2017 29.8% of Australian primary, and 40.6% secondary, students were enrolled in private schools, compared to OECD averages of 11.5% (primary) and 17.8% (secondary).¹⁰ Parents of a child with intellectual disability choose schools on the basis of how welcoming and inclusive they believe the school will be for their child.

Hannah, Harry and Chris were from different families that had each separately chosen Abramor School¹¹ – a faith based, non-government, metropolitan school – for their other children. The parents all believed Abramor would provide a welcoming and supportive learning environment. They also felt that as Hannah, Harry and Chris would be in the same year it would be much less isolating for them than if they were the only student with an intellectual disability in their age group.

The parents also believed that having three students with comparable mild to moderate intellectual disability, where the same types of supports would meet the needs of all three would make it easier and more likely that the school would prioritise supports compared to if there was only one student. The parents did ask that Hannah, Harry and Chris be placed in separate home groups so that they would be treated as individuals rather than as the *'group of disabled students'*.

Late in Year 9 Hannah, Harry and Chris's parents met with Abramor's Deputy Principal to discuss options for Year 11. Under discussion was whether Abramor could support the delivery of the Foundation Victorian Certificate of Applied Learning (VCAL), which is a modified VCAL program for students with disabilities. While Abramor was only delivering Intermediate and Senior VCAL at the time, the Deputy Principal was very positive about delivery of Foundation VCAL.

The parents felt reassured by the Deputy Principal who made statements that it was *'very doable'* and that the school would be able to plan for it given the families had been proactive and approached the school early. The parents left the meeting with the clear understanding that Abramor was fully committed to supporting Hannah, Harry and Chris in their final two years of education.

Late in Year 10, Hannah's parents met with the school's Education Support Co-ordinator and the Career Counsellor at a Program Support Group (PSG) meeting. Hannah's parents were informed that Abramor did not offer Foundation VCAL and that it *'did not intend to'*. It was then suggested to Hannah's parents that if they wanted Hannah to do Foundation VCAL, they should enrol Hannah at a particular TAFE.

Hannah's parents were extremely distressed. They had understood that all was in order for Hannah to continue her studies at Abramor. They were very concerned that the TAFE recommended was not the local one, was some distance away and not on the local train line. This seemed to indicate the school had not thought through Hannah's needs.

Abramor then informed Chris's parents, who were similarly caught unaware, that the school was not intending to deliver Foundation VCAL and was instead suggesting Chris would have to leave the school if he wanted to access Foundation VCAL.

When Harry's parents came in for their PSG meeting, they were aware of what was going to be said and were prepared. Harry's parents insisted that Harry was not going to be moved to TAFE. They asked that the school facilitate work experience for Harry with eight 10-week placements to be arranged over Years 11 and 12. Harry's parents stated they were happy if Harry did not get either VCAL or VCE along as he was able to continue at the school and achieve a Certificate of Competency and participate in work experience.

All three students said they wanted to stay at Abramor and undertake a tailored program. The school became enthusiastic about this idea and informed the families they had engaged a primary school teacher to provide additional literacy and numeracy support, and also offered to develop a portfolio of the students' competencies and work experiences. All three families were happy with this option and the students continued into Year 11.

During Year 11, Harry expressed interest in a school-based apprenticeship at the local TAFE which offered a Certificate III in Hospitality comprising six months front of house followed by six months back of house in the TAFE's own restaurant. Soon after, Chris and Hannah also decided they would also like to try this option. The families sought a joint meeting with the school, the TAFE and the TAFE's Disability Employment Service (DES) to discuss what might be possible.

It was agreed that Abramor would support the school based apprenticeship for all three students, which would commence in Year 12, and that the students would have one period a week with the school's senior Food Technology teacher to provide additional support as a subject matter expert. TAFE said it would rewrite the student booklets into accessible language and the DES person stated they would '*do whatever it took to make this work*'. As a result, the students and their parents went into Year 12 with high hopes.

However, what was promised did not materialise.

TAFE did not provide the booklets or any other resources in plain English or Easy Read formats and the DES staff left after supporting the students on the first day. Four weeks into the semester Harry's parents decided they would use some of Harry's NDIS funding to pay for a support person. Harry's support person informed the families that Hannah was often in tears, which her parents noted would happen when she felt overwhelmed and uncertain. Harry also demonstrated that he was feeling overwhelmed and unable to keep up with the written class content.

Harry and Hannah received reports from DES in which all details, with the exception of the student names, were the same. The reports also all contained the same '*solution*', which was that the students '*would try harder to understand*'. Harry and Hannah's parents separately sought feedback from the TAFE teacher, who was in their first year of teaching, as to how each student was going and they were reassured that all was fine. Then at the end of the first six months Hannah and Harry received their reports stating they had not reached competency in the majority of areas.

Hannah and Harry were offered a re-sit on their front of house competencies. This was done in a single lunch service, as compared to other students who had been assessed in step-by-step learning increments. The result was that both students did not reach competency in a number of specific skills.

The expectation was that Hannah and Harry would still join all the other students in swapping to the back of house. On the first day back, Harry and Hannah reported that they were the only students not moved back of house. The first three weeks of semester the restaurant was not open allowing students time to familiarise themselves with procedures without the additional pressure of food service. This meant Harry and Hannah were missing out on critical learning opportunities as well as feeling singled out as having 'failed'.

Despite having 'failed' Hannah and Harry were asked to show the new students what was required front of house. Harry's parents continued to contact TAFE to establish when Harry would be going back of house. Hannah's parents organised a support worker for Hannah as Harry's support worker had stated they believed Harry and Hannah were being held back because TAFE wanted Harry's support worker to support Hannah as well.

Two weeks into the semester, with the restaurant about to open, Harry's mother received a call from the school stating that the TAFE had contacted the school during the school holidays and asked the school to convey that Hannah and Harry were not to return to TAFE. The school said it had advised TAFE that it needed to directly communicate this to the parents, which TAFE had failed to do.

Harry's parents had been in regular conversation with TAFE checking when Harry would be going back of house and had been told repeatedly by TAFE 'today' but TAFE had not made any mention of Harry not being allowed to return to TAFE. Harry and Hannah then began working back of house and Harry's parents decided to cease communicating directly with the TAFE and work through the school.

In August of Year 12, Harry, who had been a student since February, received an email from TAFE welcoming him as a student with a disability and asking if he needed any support. His parents decided to contact the sender and explain their experiences. When they met with the staff member, they were advised there was not anything the person could do, however they then said; *'Maybe you would like to make a complaint?'* Harry's parents decided to make a complaint and subsequently received an email from the TAFE's Student Resolutions Officer promising that the Schools Relationship Coordinator would be in touch to follow up. This did not happen. The TAFE's Student Resolutions Officer then sent one final email, which did not acknowledge or address any of the actual issues raised by Harry's family in their complaint, advising that the matter was now closed.

Harry's mother said at this point: *'I am worn to the ground. I am a strong, middle class and educated person, but I am totally defeated by this system.'*

In talking about what happened Hannah's mother said: *'I just don't understand how things work and I couldn't imagine doing this alone and without the support of my husband and Harry's parents.'*

Learnings and recommendations from the case study

This review asks whether the Standards have contributed towards students with disability being able to access education and training opportunities on the same basis as students without disabilities.

Inclusion Australia (IA) believes that the Standards are well intentioned. However, it cannot be said they have contributed to education access when fewer students with disability have completed high school in 2018 than in 2012. The case study shows how students with intellectual disability struggle to get the supports they need within the various education settings. It also illustrates that success too often relies on strong family voices, and even then, results are mixed at best. IA sees these difficulties are greatly compounded when the family or student is the lone student with intellectual disability in a school setting, is in a regional or remote setting, or from an Indigenous or culturally and linguistically diverse or other marginalised background.

It is frustrating that the themes identified in the 2010 and 2015 Reviews of the Standards - awareness raising, clarity, understanding and capability, complaints, and accountability and compliance - still need to be addressed.

IA believes changes to the Standards would be best approached as part of broader education reform to achieve inclusive education in Australia that meets our obligations under the UN Convention on the Rights of Persons with Disabilities (CRPD). The Australian Coalition for Inclusive Education (ACIE) Roadmap¹² provides a clear approach to achieving this outcome.

Recommendations

Accurate data is key to measuring and monitoring the impact of the standards. IA believes it is almost impossible to monitor with confidence what is not measured.

Recommendation #01:

IA strongly encourages DESE to work with advocacy groups to identify critical gaps in data collection and to develop strategies to address these gaps as quickly as possible.

The voice of students with intellectual disability is almost invisible. Students are not provided with the time and resources required to learn to make informed decisions about their own education.

Recommendation #02:

The Standards must prioritise the voice of students with disability, which includes structured support for decision-making.

The educational experience of students with intellectual disability may be very different to the experience of their family in advocating for them to receive that education.

Recommendation #03:

Provide coordinated support for family members, such as funded family-to-family peer support in every region, to build their capacity as informal advocates for the students they support when engaging with the education system.

Implementation of agreed supports must be documented. IA suggests a standard Easy Read document be developed that could be used by students with intellectual disability, their families and educational providers to record agreed supports for a student. This could include reasonable adjustments, who is responsible for what, and what happens in the event that the agreement breaks down. This document could also include details about the Disability Standards.

Recommendation #04:

Agreed supports and implementation plans for students with intellectual disability must be documented in an accessible format

The standards state it is good practice for an education provider to ensure that there are review mechanisms in place to deal with any grievances.

Recommendation #05:

DESE mandates that educational providers have these review mechanisms in place by tracking their existence, the ways they are communicated and how many matters they deal with.

The Disability Standards for Education rely on a complaints mechanism to drive compliance. There is no requirement for educators to demonstrate compliance with the Standards. Reliance on AHRC to enforce the standards is cumbersome, slow, intimidating and propels students, their families and education providers into unnecessarily adversarial processes.

Recommendation #06:

The AHRC reports on the number of complaints it deals with each year relating to students with an intellectual disability and their education provider including how long it took for the complaint to be dealt with and any outcomes. This would ascertain how effective this mechanism is and how likely it is to be used and how timely its responses are.

Recommendation #07:

Enable greater use of community-based mediation services to resolve disputes at the earliest possible instance.

The Standards must ensure that Australia's regulatory framework for education of students with disability fully aligns with the rights and concepts in the UNCRPD.

Recommendation #08:

The Standards should reference the CRPD and clearly outline the right of every student to be included in their local school / TAFE with adequate and intentional accommodations to ensure access on the same basis. No educational settings should be allowed to deny enrolment or enforce reduced attendance.

Endnotes

¹ Australian Institute of Health and Welfare, *People with disability in Australia*, Updated 3 September 2019, <https://www.aihw.gov.au/reports/disability/people-with-disability-in-australia/education-and-skills>

² Ibid.

³ Australian Institute of Health and Welfare, *People with disability in Australia*, Updated 3 September 2019, <https://www.aihw.gov.au/reports/disability/people-with-disability-in-australia/education-and-skills>

⁴ Ibid.

⁵ Ibid.

⁶ Australian Bureau of Statistics, 2012, *Disability, Ageing and Carers, Australia: Summary of Findings, 2012*, ABS Cat. No. 4430.0, ABS Canberra.

⁷ Ibid.

⁸ Australian Government, Department of Education, 2019, *Nationally Consistent Collection of Data on School Students with Disability* (NCCD), <https://www.nccd.edu.au/>

⁹ **Note: All names have been changed to preserve privacy.**

¹⁰ <https://theconversation.com/choosing-a-school-for-your-kid-heres-how-other-australian-parents-do-it-126011>

¹¹ **Note: School name has been changed.**

¹² <https://acie105204494.files.wordpress.com/2020/07/acie-roadmap-updated-30-july.pdf>