

Senate Education and Employment References Committee
Questions on Notice – Friday 18 September 2015
Sydney, NSW
Inquiry into the education of students with disabilities

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Senate Education and Employment References Committee
Questions on Notice to People with Disability Australia
Friday 18 September 2015 - Sydney, NSW
Inquiry into the education of students with disabilities

1. HANSARD, PAGE 12

Senator McKENZIE: I was going to ask you if your evidence is only based on a New South Wales perspective, but I think you just said it was?

Ms Sands: Some of our information is, because we receive New South Wales funding as well as national funding. But a lot of it is from our membership, which is across Australia.

Senator McKENZIE: Which states do it best?

Ms Sands: I do not know that I could actually answer that question. Some states do certain things well. I think that is quite difficult and I would probably want to examine the jurisdictions more thoroughly before I responded to that.

Senator McKENZIE: Could you take that on notice? I think that, as a national body, you are uniquely placed to give us that kind of feedback so that we can have an understanding of which parts are done well and where. I think that is important.

Ms Sands: We can take some of that on notice.

Our response is that all States and Territories are performing poorly with regard to understanding and providing genuine inclusive education for children with disability. As stated in our submission and in our evidence provided at the hearing, the primary reasons for this are the lack of embedding of disability inclusion at the macro level within the education system, inadequate funding for disability support, and a lack of skills and training on the front line of staff and school administration.

The view that there is no one State or Territory that is performing significantly better than others - to a level where good practice examples could be drawn, is confirmed by the information provided to the Committee in the submission by Children with Disability Australia (Number 257), including the National Snapshot provided at pages 43 – 49.

Senate Education and Employment References Committee
Questions on Notice to the Australian Education Union
Friday 18 September 2015 - Sydney, NSW
Inquiry into the education of students with disabilities

1. HANSARD, PAGE 18

CHAIR: ... Thinking about that poor education for students with disabilities, is there any information or experience that would indicate how many students end up on a disability-support pension when better education and skills could help them transition into the workforce? Has anyone done any of that modelling?

Ms Haythorpe: I am unaware if that modelling has been undertaken.

2. HANSARD, PAGE 18-19

Senator McKENZIE: Is it not the case that the government introduced the exact same loading for students with a disability that the previous government would have implemented

Ms Haythorpe: There is a loading in place for students with a disability.

Senator McKENZIE: Is it the same as what the previous government would have put in place?

Ms Haythorpe: No it is not. The previous government committed to introduce a new increased disability loading in 2015 based on the information provided by the NCCD process, in line with recommendations of the Gonski Review. An interim loading was proposed by the previous government to apply for only 2014.

The current government's maintenance of the interim loading through 2015 and beyond as now looks likely is contrary to the policy of the previous government, the recommendation of the Gonski Review and the current government's promises to parents of children with disability prior to the 2013 federal election.

3. HANSARD, PAGE 19

Mr Mulheron: We had a briefing with the Department of Education in New South Wales and every stakeholder group—the non-government sector, the AAIS, Catholic Education—sees the agenda and gives feedback.

Senator McKENZIE: Which department—

Mr Mulheron: The New South Wales department.

Senator McKENZIE: But who in the department ran that meeting?

Mr Mulheron: I do not know who ran the meeting.

Senator McKENZIE: Were you in the meeting?

Mr Mulheron: No, I was on a phone call to a member of the department.

Senator McKENZIE: On notice, could you please tell the committee who ran that meeting—which departmental official?

Mr Mulheron: Minister Adrian Piccoli.

4. HANSARD, PAGE 20

Senator McKENZIE: I assume that is the range across the nation. That is a huge disparity in funding for students with a disability between the states—it is actually quite concerning. What is the contribution from New South Wales?

Ms Haythorpe: The per student funding amount for NSW is \$13,244, almost exactly the national average, based on information in the 2011 ACER paper.

5. HANSARD, PAGE 20

Senator McKENZIE: On notice, could you ask your branches to provide dates for the meetings with ministers and for agenda items around increasing state contributions per child?

Ms Haythorpe: I have contacted the Branch Presidents who have advised me that they are unable to provide dates of meetings with Ministers and agenda items of these meetings although we understand that some states publish ministerial diaries.

6. HANSARD, PAGE 20

Senator McKENZIE: Who have you met with at this stage?

Ms Haythorpe: I have met with a number of stakeholders. I do not have my diary here at the moment to go through those.

Senator McKENZIE: Could you take it on notice to outline that?

Ms Haythorpe: The AEU has met with members of parliament from all political parties, State and Territory Education Ministers, Education Department officials and Education Associations and organisations. The Federal Minister Christopher Pyne declined to meet with the AEU about this issue.

7. HANSARD, PAGE 21

Senator McKENZIE: On notice, I would be really keen to know which states are doing well in the provision of adequate PD around this. Are there ones that are better than others?

Ms Haythorpe: I am able to provide some examples of PD, although branches have advised that they would not describe this as “adequate” rather PD that is delivered without the full resourcing that is required to support students.

Northern Territory:

Currently Professional Learning in the Territory consists of five on-line courses requiring 3 x 2 hour face to face sessions and 20 hours of personal time. Disability Services also provides a one hour session on different topics on average of twice a term to all members of the disability teams.

From the vision perspective there is no Professional Learning available in the Northern Territory and if teachers wish to attend sessions elsewhere the costs have to be self-funded.

Queensland:

The Department has provided professional development on the Disability Discrimination Act and the Disability Standards for Education since 2007.

The DDA and DSE were covered in the first module of Contemporary Practices: Students with Disability online course. This facilitated course was delivered from 2007 to 2012.

The DDA and DSE were part of Module 1 of On the Same Page statewide professional development workshops for school and curriculum leaders, delivered statewide (at 14 locations) during 2008. This PD followed the release of the P-12 Curriculum Framework for Queensland State Schools.

As part of the MSSWD NP all jurisdictions contributed to the development of the DSE eLearning lessons by Canberra University. Six courses are now available, tailored for Educational Leaders, Senior Secondary, Junior Secondary, Primary, Early Childhood and Education Assistants (teacher aides). The first Disability Standards for Education course in Queensland was Educational Leaders – Lessons 1-3 (compliance) went live in June 2013. Lessons 1-3 of most other courses were released gradually during 2013 and 2014. Lessons 4-8 for other courses commenced release in 2014 and the full suite of all courses, with all lessons, was available from May 2015.

South Australia:

Attached is the website for the Special Education Resource Unit.

<http://web.seru.sa.edu.au/>

SERU has a number of specialist teachers in areas of disability that provided training and support to schools. This includes running workshops and online training.

They have a library and find relevant research on topics that interest schools.

There are experienced educators in the library who can provide advice to teachers on use of equipment and resources. They also have a team of educators with speciality in hearing. There are issues related to lack of access to face to face training for country educators.

The key issue is the level of funding provided to SERU as they are constantly being reviewed. Increased access through more funding is vitally important.

8. HANSARD, PAGE 21

Senator McKENZIE: ... are AEU branches around the country taking the New South Wales experience onboard and attempting to have similar conversations with their ministers around the country?

Ms Haythorpe: AEU Branches constantly raise their concerns about resources with their relevant Ministers.

9. HANSARD, PAGE 22

CHAIR: ... Ms Haythorpe, in relation to the gap between state contributions in South Australia and Tasmania, is that gap partly driven by definitions?

Ms Haythorpe:

There is no clear consistent relationship between the level of recognised disability and per student funding.

South Australia, with the highest percentage of recognised disability and the lowest per student targeted funding, does use a broader definition of disability which includes a large number of students in the communication and language impairment category.

This is the only data we have available on these matters and it should be noted that they come from different sources. The funding data comes from a survey ACER conducted for its paper on funding disadvantaged students for the Gonski Review. The percentages of students with disability are the officially recognised levels of students who receive targeted funding in each state.

More accurate data should become accessible through the NCCD. Reports from the two years of partial implementation indicate the real levels of disability are higher.

Disability levels and per student targeted funding, government schools

	NSW	Vic	Qld	WA	SA	Tas	ACT	NT	Aust
% students with recognised disability*	6.4	6.3	5.6	4.3	8.9	7.9	5.2	4.4	6.2
Targeted disability funding per student**	\$13,244	\$19,800	N/A	\$20,233	\$4,808	\$41,817	\$25,765	\$8,143	\$13,332

***Productivity Commission Report on Government Services 2015 (2013 figures) Table 4A.31**

**** Australian Council for Educational Research (2011). Assessment of current process for targeting of schools funding to disadvantaged students. p. 40.**

Senate Education and Employment References Committee
Questions on Notice to the Epilepsy Action Australia
Friday 18 September 2015 - Sydney, NSW
Inquiry into the education of students with disabilities

1. HANSARD, PAGE 45

Senator McKENZIE: So is there a state that actually deals with students with epilepsy appropriately?

Ms Todd: Queensland is probably the best. Under the chronic illness funding, some children do manage to get funding in that area. But that is about the only one. Victoria has a little bit, but it is still difficult to actually get funding. New South Wales and Western Australia are the most difficult.

Senator McKENZIE: What about South Australia and Tasmania?

Ms Todd: I do not know about Tasmania.

Senator McKENZIE: Could you take that on notice and get back to us?

Ms Todd: Yes.

Senate Education and Employment References Committee
Questions on Notice to the National Independent Schools Association
Friday 18 September 2015 - Sydney, NSW
Inquiry into the education of students with disabilities

1. HANSARD, PAGE 33

Senator McKENZIE: When you talk about the split of government funding, state and federal, what sort of proportionality is that?

Ms Gadek: That differs from state to state, with each state signing up to—

Senator McKENZIE: Our Tasmanians versus our South Australians.

Ms Gadek: Yes, versus New South Wales versus Western Australia.

Senator McKENZIE: Could you provide a breakdown for the committee of that proportionality by state?

Ms Gadek: As I understand, it is with the agreements that each state government signed off on. I personally would not know it. I would have to seek advice.

Senator McKENZIE: That would be great, thank you.

Ms Gadek: Yes, I can do that.

Reply from Ms Gadek

I have enquired through many avenues to find the information referring to the agreements between each state government and the Commonwealth government that was requested of me in by Senator McKenzie. At this stage I am still unable to access this information.



EPILEPSY ACTION
A U S T R A L I A

Epilepsy Action Australia
Response to questions on notice

Senate Education and Employment Reference Committee –
Students with disability in the school system,
Public Hearing Friday 18 September 2015, Sydney.

Phone: 1300 37 45 37
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1.0 AUSTRALIAN EPILEPSY STATISTICS

Re: Proof Committee Hansard, Senate Education and Employment Reference Committee – Students with disability in the school system, Public Hearing Friday 18 September 2015, Sydney.

Page 47 Senator Peris request.

Prevalence of Epilepsy

(number of active cases)

State	AUS	NSW	VIC	QLD	SA	WA	TAS	NT	ACT
Pop.	234721	75157	58395	47213	16854	25654	5147	2446	3855
Age									
0-4	15271	4858	3751	3169	1008	1715	310	192	268
5-9	14877	4742	3579	3169	994	1653	322	179	238
10-14	14072	4490	3363	3010	971	1539	315	170	215
15-19	14743	4674	3579	3098	1048	1613	338	164	230
20-24	16507	5136	4198	3358	1144	1843	313	193	322

Source:

Figures extrapolated from WHO figures with a prevalence of epilepsy at 0.01 and Population figures obtained from ABS (3101.0). Updated on 20/07/15

Lifetime Incidence of Epilepsy

(proportion of the population develop epilepsy at some time in life)

State	AUS	NSW	VIC	QLD	SA	WA	TAS	NT	ACT
Pop.	82152	26305	20438	16524	58989	89788	18014	8561	13492
	5	1	2	7					
Age									
0-4	53450	17004	13128	11093	3528	6002	1085	671	939
5-9	52070	16597	12528	11093	3480	5786	1126	628	832
10-14	49252	15714	11772	10537	3398	5386	1101	594	751
15-19	51601	16358	12528	10843	3667	5645	1183	574	803
20-24	57774	17975	14692	11753	4005	6450	1097	676	1127

Source:

Figures extrapolated from WHO figures with a life time incidence of epilepsy at 0.035 and Population figures obtained from ABS (3101.0). Updated on 20/07/15

2.0 DEFINITIONS OF DISABILITY : INCLUSION OF EPILEPSY

Re: Proof Committee Hansard, Senate Education and Employment Reference Committee – Students with disability in the school system, Public Hearing Friday 18 September 2015, Sydney.

Page 45 Senator McKenzie request.

2.1 National

There is no consistency across states and territories the terminology used in the Department of Education in relation to disability, policies, programs and meta-tags for search of the individual department websites.

Epilepsy is defined as a disability under the Disability Discrimination Act as a) a disorder or malfunction that results in the person learning differently from a person without the disorder or malfunction and b) as a disorder, illness or disease that affects a person's thought processes, perception of reality, emotions or judgment or that results in disturbed behaviour. The definition of "disability" used in the DDA is broad covering disabilities that people have now, had in the past, may have in the future or which they are believed to have. (1)

The Disability Standards for Education in the Australian Disability Discrimination Act states that schools must make reasonable changes so that students with disability have the same education opportunities and choices as all other students.

Nationally government, independent and catholic schools all have support and funding for children with disability. There are specific funding programs for students with disability. The type of support available, name of the programs and how to apply vary between states or territory and between the government, catholic or independent school systems. (2)

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1. Australia Government Department of Education, Disability Discrimination Act 1992
< <http://docs.education.gov.au/system/files/doc/other/dse-fact-sheet-1-dda.pdf> >
 2. School Support: Children with Disability, 2015, <
http://raisingchildren.net.au/articles/disability_school_support.html>

2.2 Tasmania

Information in the Tasmanian Department of Education website on disability link directly to the Commonwealth Department of Education and Training and it was difficult locating information in relation to our inquiry and the number of children currently receiving support due to epilepsy as a sole disability.

“The two main pieces of legislation that guide work with students and people with disability are the [Disability Discrimination Act, 1992 \(DDA\)](#) and the [Disability Standards for Education, 2005 \(DSE\)](#).”

Disability, ([Disability Services Act 2011 \(Tas\)](#)) in relation to a person, means a disability of the person which:

- a) is attributable to a cognitive, intellectual, psychiatric, sensory or physical impairment or a combination of those impairments; and
- b) is permanent or likely to be permanent; and
- c) results in:
 - (i) a substantial restriction in the capacity of the person to carry on a profession, business or occupation, or to participate in social or cultural life; and
 - (ii) the need for continuing significant support services; and
- d) may or may not be of a chronic episodic nature.^(3,4,5)

The Tasmanian Department of Education publication *Specific Health Issues: Procedures, Information and Contacts* lists epilepsy as follows

“Epilepsy

- School/college principals are responsible for ensuring Medical Action Plans are in place.
- Requirements for the administration of medication for epilepsy are contained in the Department of Education’s Administration of Medication Procedures (section 4.2)” ⁽⁶⁾

While the publication *Register of Students with Severe Disability* outlines the criteria for inclusion on the register to receive support

“Epilepsy

Eligibility on the basis of epilepsy is determined by the frequency and severity of seizures at school and their subsequent educational impact.

A diary of seizures at school is required to substantiate a nomination for inclusion on the Register of Students with Severe Disability. What information is needed?

To assist the Moderation Committee in making an informed decision the following information is necessary:

1. A recent physiotherapy, occupational therapy and/or speech pathology report as appropriate;
2. A medical report if being nominated on the basis of a medical condition or health impairment;
3. A current education report written by the teacher or guidance officer, clearly identifying and describing the educational implications of the physical disability or health impairment according to the criteria previously mentioned; A generic education report template is available along with brief information about education reports prepared for nominations to the Register.
4. A photocopy of the current, working IEP if appropriate. (This is not necessary if nomination is on the basis of a medical condition not requiring curriculum modification); and

5. Any other relevant documentation (e.g. seizure diary if applicable, toileting diary, medical management plan, if applicable).

The documentation should be submitted with a Nomination Cover Sheet. All information must be current and relevant.”⁽⁷⁾

3. Tasmanian Government Department of Education, 2015, <
<https://www.education.tas.gov.au/documentcentre/Documents/Supporting-All-Disability-Focus-FAQs.pdf> >

4. Australian Government, 2005, Disability Standards for Education plus guidance notes, <
http://docs.education.gov.au/system/files/doc/other/disability_standards_for_education_2005_plus_guidance_notes.pdf >

5. Disability Services Act 2011 (No.27), < http://www.austlii.edu.au/cgi-bin/download.cgi/au/legis/tas/num_act/dsa201127o2011259 >

6. Tasmanian Department of Education, 2015, *Specific Health Issues: Procedures, Information and Contacts*, < <https://www.education.tas.gov.au/documentcentre/Documents/Specific-Health-Issues-Procedures.pdf> >

7. Tasmanian Department of Education, 2015, *Register of Students with Severe Disability*, <
<https://www.education.tas.gov.au/documentcentre/Documents/Register-of-Students-with-Severe-Disabilities.pdf> >

2.3 Northern Territory

Northern Territory have adopted the [Disability Discrimination Act 1992](#) and [Disability Standards for Education 2005](#). As outlined in the *DET Students with Disabilities Policy 2008*.

“The definition of “disabilities” used will be that recommended by Ministerial Council on Education, Employment, Training and Youth Affairs (MCEETYA (2006):

“Students with disabilities are those students who, without extra support or adjustment to the environment, would be restricted in their ability to participate in the academic program of the school due to an underlying condition that has lasted, or is expected to last, for more than six months.”

The definition is to be interpreted in conjunction with the following elaborations:

Extra support or adjustment to the environment. Changes to the school environment or to the student’s learning environment that facilitate the student’s ability to participate in education, and that are in addition to personnel, material or financial resources provided for the students who do not have a disability

An underlying condition. a chronic illness or impairment in intellectual, physical, sensory, communication or psychological function that has lasted, or is expected to last, for more than six months.” (8, 9)

Falls under criteria

“Special Needs Resourcing is only allocated for students with diagnosed disabilities / disorders who require moderate to major adjustments to their educational program as per the SNPI (Special Needs Profiling Instrument). Students who are eligible for Special Needs Resourcing will require:

1. Verification of diagnosis
2. Moderated profile entered into the SEN module
3. Education Adjustment Plan.’(9)

Limitations of criteria

If students with epilepsy actually did meet the criteria from SNPI, it would only be low level and many, apart from those with existing disabilities, would probably not fulfil criteria for extra assistance or only receive minimal assistance.

8. Northern Territory Department of Education, 2015, *Department of Education Policy: Students with disability*, < <http://www.education.nt.gov.au/about-us/policies/documents/schools/school-management/students-with-disabilities> >

9. Northern Territory Department of Education, 2010, *Special Needs Profiling Instrument: Guide for Schools, Parents and Carers*, < http://www.education.nt.gov.au/data/assets/pdf_file/0007/9799/SpecialNeedsProfilingInstrumentInfo.pdf >

2.4 South Australia

South Australia Department of Education has also adopted the Commonwealth Disability Discrimination Act definition of disability and to avoid any doubt it also includes “ a disability that is otherwise covered by this definition includes behaviour that is a symptom or manifestation of the disability.”

The two Acts which relate to the enrolment and accommodation of students in schools with disabilities are:

1. The [Equal Opportunity Act 1984](#), administered by the SA Equal Opportunity Commission, and
2. The [Disability Discrimination Act 1992](#) (DDA), a Federal Act making unlawful discrimination on the basis of disabilities.

Students/children with disabilities mean the following:

A student who is attending a Government or Non-Government school and who has been assessed by a person with relevant qualifications as having intellectual, sensory, physical, social/emotional or multiple impairments to a degree that satisfies the criteria for enrolment in Special Education services or programs provided by the Government of the State or Territory in which the school or centre is located.

A child whose impairments, as defined above, would in the future meet the criteria for enrolment in Government Special Education services or programs. Verification of a student's or child's eligibility may be sought.

A student or child whose only impairment is a specific learning difficulty, or for whom remedial education or remedial support is appropriate, is not eligible. (10, 11)

(Commonwealth Programs for Schools Quadrennial Administrative Guidelines 2005–2008)

Falls under criteria

Definition is given for the following disabilities:

1. Intellectual
2. Global development delay
3. Physical
4. Hearing
5. Vision
6. Speech and Language
7. Autism Spectrum Disorder
8. Social/Emotional

Intellectual disability is determined by an assessment, which includes:

1. A full Scale IQ score of two or more standard deviations below the mean on a standardised individual test of intelligence, or other evidence of significantly delayed intellectual development should the student's disabilities prevent standardised assessment.
2. A score of two or more standard deviations below the mean in at least two of the following areas on an approved standardised assessment of adaptive behaviours: communication skills, self-care, home living, social and/or interpersonal skills, use of community resources, self-direction, functional academic skills, work (if appropriate), leisure, health and safety

In addition to the diagnostic assessment, there must be documented evidence of the ways in which the student's intellectual impairment does or will significantly impact on progress in the curriculum and the ability to participate in learning activities or other aspects of school life.

Global Developmental Delay (up to 7 years) is demonstrated by assessment that shows the following results:

1. General intellectual ability two or more standard deviations below the mean on a standardised individual test of intelligence, or other evidence of significantly delayed intellectual development should the student's disabilities prevent standardised assessment.
2. A score of two or more standard deviations below the mean on a standardised assessment of adaptive behaviour for the composite score or in at least two of the following areas: communication, self-care, home living, social and/or interpersonal skills, use of community resources, self-direction, leisure, health and safety.
3. Preschool/school observations and assessments of adaptive skills, attainment and developmental progress.
4. Evidence may also be provided by other support services and agencies and may include, for example, paediatric or other specialist reports(11)

South Australia Department of Education and Child Development provide excellent medical and health support for children with epilepsy especially if the child requires administration of an emergency medication however this document does not fully address the cognitive processing impact of epilepsy and antiepileptic medications on education and learning of the child. (12)

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10. Department for Education and Child Development, 2014, *Policy Children and Students with Disability*, (policy currently under review), <
<http://www.decd.sa.gov.au/docs/documents/1/StudentswithDisabilitie-1.pdf> >
 11. Association of Independent Schools, 2006, *Students with disabilities, Enrolment guidelines for independent schools*, <
<http://www.ais.sa.edu.au/files/f/6516/Student%20with%20Disabilities%20-%20Enrolment%20Guidelines.pdf> >
 12. Kyrkou, N., Kyrkou, M., Harbord, M., 2007, Ed. 2nd, *Epilepsy in education and children's services*, <
http://www.decd.sa.gov.au/speced2/files/pages/chess/hsp/Pathways/109235A_Epilepsy_guideline.pdf
>

2.5 Australian Capital Territory

This information is currently under review and the Department of education links to Australian Government Disability Education legislation and policies

- [Disability Standards for Education 2005](#)
- [Disability Discrimination Act 1992](#)
- Privacy Act 1988

There is provision of general information about epilepsy in the departments first aid information whilst an interim document outlines their eligibility criteria for disability support of which the majority of students impacted by epilepsy would not qualify. (13, 14)

“CHRONIC MEDICAL CONDITION ELIGIBILITY

A student is considered to have a disability due to a chronic medical condition where:

- their level of functioning and independence and ability to undertake essential learning tasks is significantly limited and
- the student is highly dependent on others to access the learning environment.

EVIDENCE

- A written statement from a medical practitioner outlining the diagnosis and providing detail of the impact of the disorder on the student’s educational functioning.
- A statement from a school counsellor or disability consultant on the impact of the medical condition on the student’s learning.

Note: These students will need a disability confirmation sheet to be completed annually.”(14)

13. ACT Government Education & Training, 2010, *Student Centred Appraisal of Need Booklet for parents, carers and staff*, <

[http://www.det.act.gov.au/_data/assets/pdf_file/0012/20127/Student_Centred_Appraisal_of_Need - Appraisal booklet for Parents Carers and Staff.pdf](http://www.det.act.gov.au/_data/assets/pdf_file/0012/20127/Student_Centred_Appraisal_of_Need_-_Appraisal_booklet_for_Parents_Carers_and_Staff.pdf) >

14. ACT Government Education & Training, 2015, *Interim ACT Student Disability Criteria*, <

http://www.det.act.gov.au/_data/assets/pdf_file/0009/17829/Interim-Disability-Criteria-2015.pdf >

2.6 Queensland

“The overarching departmental definition of disability is outlined in Section 4 of the Disability Discrimination Act 1992 and then adopted as part of the Disability Standards for Education (the Standards) that became law in 2005 as subordinate legislation.

The Department adheres to the DDA definition of disability and requires schools to make reasonable adjustments to ensure that all students with disability are able to participate in education on the same basis as students without disability”. (15)

Criteria to Decide a Person is a "Person with a Disability" for the purpose of Enrolment in State *Special* Schools s.165(2), Education (General Provisions) Act 2006 (16)

The person must meet the following criteria:

1. The person has a disability as defined by the Disability Discrimination Act 1992 (DDA)
2. The person has a severe disability which includes an intellectual disability
3. The person is unlikely to attain the levels of development of which the person is capable unless the person receives special education
4. The person's educational program is best delivered in a special school taking into account the appropriateness of this placement for the individual concerned.

Definitions for this Policy include

Intellectual Disability: An intellectual disability is characterised by deficits in intellectual functioning and adaptive behaviour. The person's identified level of functioning results in activity limitations and participation restrictions at school requiring significant education adjustments.

Intellectual functioning: Intellectual functioning associated with intellectual disability is characterised by deficits in reasoning, problem solving, planning, abstract thinking, judgement, academic learning and learning from life experiences. This is typically associated with an Intelligence Quotient (IQ) score of approximately 70 or below.

Adaptive behaviour: Adaptive behaviour associated with intellectual disability is characterised by deficits that impair functioning in comparison to a person's age and cultural group in one or more aspects of daily living such as communication, social participation, functioning at school or work, or independence.

Severe Disability: 'Severe Disability' means a disability where the impact of the intellectual disability, or multiple impairments (including an intellectual disability), results in the student requiring a highly individualised program to access and participate in education.

Specialised health needs: Specialised health needs are defined as procedures/interventions that are essential to enable a student to access their educational program. They are requested, prescribed and/or established by an appropriate qualified health professional and incorporate routine and/or emergency procedures and interventions.

Specialised health procedures and interventions include, but are not limited to:

- enteral/artificial feeding (gastrostomy, nasogastric, jejunostomy)
- airway management (tracheostomy care, oral suctioning, oxygen therapy)
- *epilepsy management (seizure management, emergency medication)*
- individualised mealtime programs with supervision
- toileting management (ostomy care, individualised toileting programs, catheterisation)
- diabetes management

- prescribed medication management
- asthma management
- anaphylaxis management.(16)

However the Education Adjustment Program (EAP) (17) , which is one of the Department's processes for identifying and responding to the support needs of students with disability, *incorporates the ICF definition of disability.* (*International Classification of Functioning, Disability and Health*) which defines disability as:

1. Disability as functioning in multiple life areas.

Simply seeing, walking, taking a bath, working, going to school, accessing social services and many such domains are included in the definition

2. Disability is seen as a result of an interaction between a person (with a health condition) and that person's contextual factors (environmental factors and personal factors).

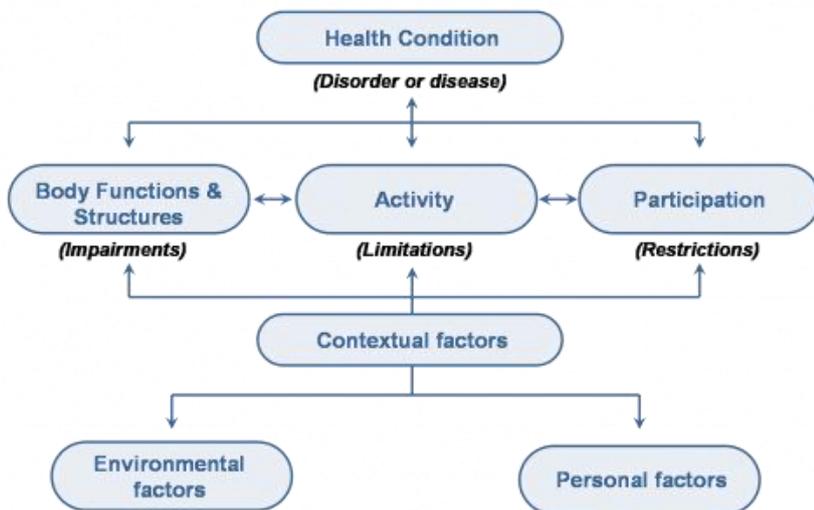
Simply, disability is not seen as an individual's intrinsic feature but a result of interaction in an environment. The interaction of the same person with the health condition may yield different functioning level in different environments.

3. Disability covers a spectrum of various levels of functioning at body level, person level and societal level. Disability denotes all of the following:

- (a) impairments in body functions and structures
- (b) limitations in activity
- (c) restriction in participation

Disability = A + B + C

Disability covers all impairments, activity limitations, and participation restrictions. This comprehensive approach is useful for prevention, rehabilitation, social policies and other interventions. [See diagram.](#)



For the purposes of identifying students with disability for the EAP, *additional criteria* are applied to the definition of disability to determine that these targeted students experience both an impairment and activity limitation and participation restrictions in one or more of the six EAP disability categories.

The EAP disability categories are:

- autism spectrum disorder,
- hearing impairment
- intellectual impairment

- physical impairment
- speech-language impairment
- vision impairment

Limitations of criteria:

The ICF definition of disability is much narrower than the DDA 1992 definition, specifying that there is an impairment (i.e. medical condition or other impairment in structure or function at the level of the body) and the impact of the impairment which limits activities and restricts participation for a person (i.e. what a person does). WHO/ICF is a universal classification of disability and health, used in health and health-related sectors to provide a conceptual basis for the definition, measurement and policy formulations for health and disability.

Whilst the Queensland Department of Education provides epilepsy education for teachers, parents report difficulties in meeting the criteria to access learning support services for children whose cognitive processing is impacted as a result of their epilepsy or antiepileptic medication.

15. Queensland Department of Education, 2005, *Departmental Disability Definitions Fact Sheet*, <
<http://education.qld.gov.au/studentsservices/learning/docs/departmental-disability-definitions-factsheet.pdf> >

16. Queensland Government- Education, 2013, *Minister's Policy: Criteria to Decide a Person is a "Person with a Disability" for the purpose of Enrolment in State Special Schools*,
< <http://education.qld.gov.au/schools/disability/ministers-policy.html> >

17. Queensland Government- Education, 2013, *Education Adjustment Program*, <
<http://education.qld.gov.au/students/disabilities/adjustment/> >

18. World Health Organisation, 2001, *International Classification of Functioning, Disability and Health (ICF)* < <http://www.who.int/classifications/icf/en/> >

2.7 Victoria

The Victorian Department of Education have well documented support policies and procedures for students diagnosed with epilepsy and experiencing seizures which address both health and learning needs of the individual students. (19)

However the assessment service provided by the department to support applications for the Program for Students with Disabilities in the categories of Intellectual Disability and Severe Language Disorder with Critical Educational Needs is limited to two categories (20). Children with epilepsy would not qualify unless they also have an intellectual disability or speech deficit as in the rare Landau Kleffner Syndrome.

19. Victoria State Government Education & Training, 2014, *School Policy & Advisory Guide- Epilepsy and Seizures*, <<http://www.education.vic.gov.au/school/principals/spag/health/Pages/epilepsy.aspx> >

20. Victoria State Government Education & Training, 2014, *Assessment Service*, <<http://www.education.vic.gov.au/school/teachers/teachingresources/diversity/pages/swdassess.aspx> >

2.8 Western Australia

In Western Australia disability is defined in alignment with the [Disability Services Act 1993 \(WA\)](#) as follows

- a) which is attributable to an intellectual, psychiatric, cognitive, neurological, sensory, or physical impairment or a combination of those impairments;
- b) which is permanent or likely to be permanent;
- c) which may or may not be of a chronic or episodic nature; and
- d) which results in:
 - (i) a substantially reduced capacity of the person for communication, social interaction, learning or mobility; and
 - (ii) a need for continuing support services.(21)

An Individual Disability Allocation will be provided for eligible students to help the school address the learning needs of students with a diagnosed disability. The allocation takes into account four determining factors:

- The student disability.
- Their degree of disability.
- The teaching and learning adjustments they require.
- The school type.(22)

There are eight categories of eligibility and each category has its own criteria. Some categories may require specific assessment or diagnosis by relevant specialists. Eligibility requires verification by Disability Resourcing to ensure the diagnosis complies with the Department's criteria and standards. A periodical review is required for some eligibility categories. This is usually for conditions or disorders that are variable in presentation or may require further clarification. If updated documents demonstrating eligibility are not received by the designated review date, funding will cease until such time as eligibility documents are received.(22)

Resources are reviewed when a student moves into a new phase of schooling. These review points are at the end of: Kindergarten; Year 3; and Year 8. For students who are eligible due to conditions such as mental disorders and medical conditions more frequent reviews are required. Some eligibility categories are resourced for limited time periods only.

- Autism Spectrum Disorder
- Deaf and Hard of Hearing
- Global Development Delay
- Intellectual Disability
- Physical Disability
- Severe Medical Health Condition
- Severe Mental Disorder
- Vision Impairment

Children with epilepsy, well controlled on antiepileptic medication experiencing cognitive processing difficulties fail to meet any of the criteria in the *Severe Medical Health Condition* category despite the purpose of the disability allocation is to a) help schools address the learning needs of students with eligible disability and b) to enable mainstream schools to implement programs and learning supports for students with additional learning needs.(22) Students with epilepsy would need to be in the extreme end of the spectrum to qualify for support under the *Students at Educational Risk Policy*(23).

This is consistent with feedback from families attempting to access support funding for their child's learning needs and difficulty in locating the required forms outlining the criteria for funding. We had difficulty locating the documents on this website despite targeted searches.

21. The Government of Western Australia, 2015, *Disability Services Act 1993*, <
http://www.slp.wa.gov.au/legislation/statutes.nsf/main_mrtitle_267_homepage.html>

22. The Government of Western Australia, 2015, *Student Centred Funding*, <
<file:///C:/Users/Lisa.EPILEPSY/Downloads/Student%20Centred%20Funding%20model%20-%20Factsheet%20-%20updated%20March%202015.PDF>>

23. The Government of Western Australia, 2015, *Students at Educational Risk Policy v2.0*, <
file:///C:/Users/Lisa.EPILEPSY/Downloads/Policy_SAER%20Policy%20and%20Procedures%20v2.0.pdf>

2.9 New South Wales

The term disability includes children with an intellectual disability, physical disability, vision impairment, hearing impairment, language disorder, mental health conditions or autism. This is consistent with the DDA. Children with learning difficulties must experience difficulties with learning in one or more areas of the curriculum. These difficulties may vary in cause, nature, intensity and duration.

The *Disability Services Act 1993 (NSW)* is the main law in NSW for providing supports and services to people with disability. The following assistance is available:

1. Students in regular classes who experience difficulties in basic areas of learning and behaviour, regardless of the cause are supported through Learning and Support resources available in their local school.
2. Students in primary, secondary and central schools may receive additional assistance in literacy, numeracy, language and behaviour.
3. Students do not need a formal disability diagnosis to access support through these resources. It includes support for students with:
 - a) significant learning difficulties,
 - b) mild intellectual disability,
 - c) language disorder or delay and
 - d) behaviour needs. (24, 25,26)

Although the criteria makes allowances for children experiencing learning difficulties no matter the cause, parental reports indicate that the effort to submit an application by the school outweighs the minimal funds made available and that their child rarely benefit as an individual as the funds are often utilised for an additional whole class teaching assistant.

While the current policy recognises that it is possible to enrol students with special needs at their local school, it also states that there are a variety of considerations associated with such an enrolment. These considerations include the characteristics and capacity of the school involved the student's educational needs and their support requirements, the choice of parents and caregivers, and the availability of support services at alternative locations (27).

24. New South Wales Government, 2003, *NSW Disability Criteria*, <
<http://www.schools.nsw.edu.au/media/downloads/schoolsweb/studentsupport/programs/disabilitypgrms/disabcriteria.doc> >

25. NSW Government Supporting Students, 2014, *Disability, learning and support*, <
<http://www.schools.nsw.edu.au/studentsupport/programs/disability.php> >

26. NSW Government Supporting Students, 2014, *Learning and Support*, <
<http://www.schools.nsw.edu.au/studentsupport/programs/lrngdifficulty.php> >

27. Dempsey, I, 2003, *The Impact of the Disability Discrimination Act on School Students with a Disability in Australia*, <http://www.anzela.edu.au/assets/anzjle_8.12_-_3_dempsey.pdf >

Senate Education and Employment References Committee
Questions on Notice to the Association for Behaviour Analysis Australia
Friday 18 September 2015 - Sydney, NSW
Inquiry into the education of students with disabilities

1. HANSARD, PAGE 50

Senator McKENZIE: Your submission notes that behaviour analysts are certified through the Behaviour Analyst Certification Board. How many behaviour analysts are there currently across Australia? Could you please break this down by state and territory?

Dr Haberlin: There are 41 certified individuals in Australia. There are three different levels of certification: doctorate level, masters level and then an undergraduate level. There are 28 people who are certified as board certified behaviour analysts or board certified analysts doctoral and then 13 who are at the assistant level. I do not have the by-state numbers.

Senator McKENZIE: Okay. Could you provide that on notice?

Number of certified behaviour analysts in Australia by state and level of certification

	BCaBA	BCBA	BCBA-D	Total
ACT	0	0	0	0
NSW	9	11	1	21
NT	0	0	0	0
QLD	1	6	0	7
SA	1	1	1	3
TAS	1	0	0	1
VIC	0	3	1	4
WA	1	3	2	6
Total	13	24	5	42

Information gathered from www.bacb.com on 8/10/2015

Please note that there is a slight variation in the number of certified behaviour analysts in Australia. The total number of certified behaviour analysts provided on the date of the hearing was accurate as of 19/9/2015. The data submitted on 8/10/2015 represents the most recent and accurate information available.

Senate Education and Employment References Committee
Questions on Notice to the Catholic Education Commission
Friday 18 September 2015 - Sydney, NSW
Inquiry into the education of students with disabilities

1. HANSARD, PAGE 61

CHAIR: Do you keep data on which practices get the best outcomes for students with disability?

Mrs Gray: We have data on the students and progress. It is only just starting.

CHAIR: But not collective data?

Mrs Gray: Not across the nation, but the disability people such as myself are involved in working together across the nation with associations like the Australian Association of Special Education and with the research groups like at Macquarie University and the University of Sydney to look at that data. So, we help with research into what is best practice, and we strive to look at their research into evidence-based best practice as to how to do it and probably also to evaluate programs, because you can imagine that in this area there are varied programs, and some are much better than others.

CHAIR: If there are any datasets that you think would be useful, we would appreciate that.

In response to the question to Mrs Gray regarding data on outcomes for students with disability, the following datasets may be useful for the Committee:

- The NSW State literacy action plan includes use of data to measure outcomes on numerous school wide programs at all three levels of intervention: <https://www.det.nsw.edu.au/media/downloads/about-us/news-at-det/announcements/yr2012/mag-literacy-numeracy.pdf>
- The NSW Effective Reading Centre collects data in regard to students from all sectors: <http://www.cer.education.nsw.gov.au/http://www.cer.education.nsw.gov.au/>
- The MSSD projects include a number of strategies and interventions, which contain some data: <https://docs.education.gov.au/node/38393>
- DIBELS early assessment tools are a generic measure: <https://dibels.uoregon.edu/market/assessment/dibels>