

Senate Education and Employment References Committee
Questions on Notice –Tuesday 29 September 2015
Melbourne, VIC
Inquiry into students with disabilities

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1	5	Ms Garner-Williams	Senator McKenzie	Yes
1	11	Children with Disability Australia	Senator McKenzie	Yes
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1	24	Occupational Therapy Australia	Senator Siewert	Yes
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1	27	NDIA	Chair	Yes
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3	34	NDIA	Siewert	Yes
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1	45-46	ACHRA	McKenzie	Yes
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Senate Education and Employment References Committee
Questions on Notice to Ms Garner – Williams – Tuesday 29 September 2015
Melbourne, VIC
Inquiry into students with disabilities

1. HANSARD, PAGE 5

Ms Garner-Williams: I have a couple of things written down; actually, I think I can just remember them—or I will try. You might need to give me a minute.

Senator McKENZIE: You can submit them on notice when you get home—

Ms Garner-Williams: Yes.

- Regarding the complaint I made about staff at my school who bullied me – My parents were also really let down by the school refusing to allow me to participate in the meetings. They strongly supported me to be involved in issues affecting me and were the reason I got involved in advocacy.
- At one school where I made a complaint, I was told that the school were unable to fire the staff because they were on permanent contracts. The staff were only dismissed due to loss of funding some time later. This is the reason I left that particular school, as it was a massive injustice.
- Once at school, a student had been injured and a staff member pointed to me and some other students and said “one of them did it,” meaning people with disability. I felt treated like a thing, not a person.
- At the hearing I brought up things that I saw happen to other students at school that were really concerning. The other thing I forgot to mention was that often, families weren’t informed of what was happening to their kids. I also didn’t tell them because I was scared of reprisals from staff. I still feel bad that I wasn’t able to tell anyone about the things I saw.
- Another incident I saw that I forgot to mention at the hearing happened to another student with an intellectual disability. She would be shut in a room and they wouldn’t let her out. She tried to bash down the door. Sometimes the school would turn her electric wheelchair off so she couldn’t move. I feel that this was another form of restraint and also physical and mental abuse.

1. HANSARD, PAGE 11

It is my understanding that the University of Canberra e-learning resource on the Disability Standards for Education (comprised of different online courses) includes one designed for 'education leaders'. The funding of this initiative occurred through different education authorities from a range of jurisdictions so contents of it are not publically available. It is believed that authorities need to have purchased this package of courses through a licensed arrangement. I have additional information about this initiative which I received as a member of the Schools Disability Advisory Council (Ministerial Advisory Committee) but I don't believe I can provide this to the Committee as I signed a confidentiality agreement pertaining to it.

2. HANSARD. PAGE 13

CDA has received information from a number of members regarding what they perceive to be effective models of best practice of education for students with disability which is quite variable. CDA is currently reviewing a range of information around international practice and is in the process of establishing an informed position regarding this. CDA cannot provide further specific opinion regarding this but would refer for further information to the report completed by ARACY "Inclusive Education for Students with Disability" which has an overview of international good practice in inclusive education. The report is available at [http://www.aracy.org.au/publications-resources/command/download_file/id/246/filename/Inclusive_education_for_students_with_disability - A review of the best evidence in relation to theory and practice.pdf](http://www.aracy.org.au/publications-resources/command/download_file/id/246/filename/Inclusive_education_for_students_with_disability_-_A_review_of_the_best_evidence_in_relation_to_theory_and_practice.pdf)

30 October 2015

Committee Secretary
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To the Secretariat

RE: Questions taken on notice: Current levels of access and attainment for students with disability in the school system, and the impact on students and families associated with inadequate levels of support

Occupational Therapy Australia (OTA) was recently invited to appear at a public hearing for the Senate Education and Employment References Committee Inquiry into Current levels of access and attainment for students with disability in the school system, and the impact on students and families associated with inadequate levels of support.

OTA attended the public hearing in Melbourne on Tuesday 29 September 2015 and was represented by Board Director Ms Nicole O'Reilly and Education and Disability Industry Adviser Dr Helen Bourke-Taylor. OTA was asked to provide feedback on notice to the Committee on a number of issues. Our responses to the specific matters that the Committee has requested further information on are outlined below.

HANSARD, PAGE 24

Question on notice re: OTA's recommendation that an NDIS working group be established

Occupational Therapy Australia recommends that an NDIS working group be established to oversee how education systems across the country will intersect with the NDIS.

While we acknowledge that these matters are the domain of individual states/territories, OTA believes there would be value in a national approach / principles around the engagement of professions such as occupational therapy in education settings so that there is national consistency. Although we are yet to develop a specific proposal for a working group, we have been engaged in numerous discussions at a grassroots level with various launch sites. From these discussions, it appears the NDIA is open to our suggestion.

OTA would be keen to pursue this matter with the NDIA nationally as a first formal step.

Question on notice re: How individual states engage with occupational therapists

The way each state and territory engages with occupational therapists differs according to departmental arrangements. Similarly, there is no consistency in terms of when private practice occupational therapists are allowed access to schools to provide services to students. The table below provides details of the varying levels of access that OTs have to schools in each state and territory, based on feedback provided by OTA members and publicly available information.

Occupational therapy services in schools

<p>VIC</p>	<p>The Victorian Department of Education and Training does not routinely employ occupational therapists to work in local schools, however the Department does employ OTs in special schools. There is currently confusion around funding arrangements and access for students with disabilities to occupational therapy services in mainstream schools. This confusion has been further exacerbated in the Barwon area of Victoria since the commencement of the NDIS. There have been many cases of OTs not being able to gain access to schools in Barwon.</p> <p>The Victorian DET employs speech pathologists to work in government schools, similar to how the Queensland DET employs occupational therapists. Speech pathologists work with students with disabilities in a number of schools across the state.</p> <p>As occupational therapists are not employed by the DET in the same way that other allied health professionals are, they can only visit local schools and provide services in a private capacity. At the discretion of the school principal, private practice OTs are allowed on site to work with students with disabilities. Despite this, there have been many instances of private practitioners being unable to access schools, even when families have requested this option.</p> <p>Occupational therapists who are engaged by parents and carers in a private capacity are occasionally invited to attend Student Support Group meetings as part of the Program for Students with Disabilities (PSD), however they often have to push to be included. It should be understood that OTs who serve as consultants are not members of Student Support Groups – they are invited to provide input in a guest capacity. OTA understands that occupational therapists are not engaged as Student Support Services Officers, whereas psychologists, social workers and speech pathologists are.</p>
<p>NSW</p>	<p>The NSW Department of Education does not employ occupational therapists. OTs are employed in some non-government mainstream and special schools across the state. Private practice occupational therapists do work on site with students with disabilities, however it is at the discretion of the school principal whether they are allowed access. There is a high level of inconsistency in terms of access – some OTs have reported being welcomed into schools, while others have been refused entry.</p>
<p>QLD</p>	<p>The Queensland Department of Education and Training employs occupational therapists to work in state schools. Queensland is leading the way in this regard. There are currently around 68.3 FTE occupational therapists working in a clinical role within the DET who provide services to schools through a regional allocation. In total, there are 91 OTs working in these particular roles. Additionally, some schools have purchased OT services through the region using discretionary funding.</p> <p>73.4 FTE OTs are employed by the Department, either to provide services or to work as a supervisory OT. A total of 96 OTs work within the Department.</p> <p>Every state school with eligible students can access occupational therapy services. Eligible students are those who meet disability criteria for the Education Adjustment Program (EAP).</p>

	<p>OTs may be employed as part-time or full-time employees, and on a permanent or specified term basis. The Department's focus is on enhancing educational programs and outcomes for students with a verified disability – i.e. intellectual disability, visual impairment, hearing impairment, speech impairment, Autism Spectrum Disorder, or multiple impairments. Physiotherapists are also employed in state schools by the DET. Service providers who are not employed by the Department may be involved in the sole provision of occupational therapy services to students, or the provision of occupational therapy services that complement services provided by the Department. Personnel at all levels are responsible for communication between departmental services and other service providers. The DET is not responsible for the professional supervision of OTs who are employed by other service providers.</p>
SA	<p>OTA understands that there are very few occupational therapists employed within the education sector.</p> <p>In order for occupational therapists to be allowed access to schools, a parent must have requested their services and they must have the school's permission.</p>
WA	<p>OTA received the following feedback from an occupational therapist working in a regional setting:</p> <p>Schools receive limited funding from the Department of Education. Students are required to have a specific diagnosis in order to qualify for educational support in class. Given that many children with disabilities often do not fall within a diagnosis category, concerns have been raised about children being over-assessed or wrongly diagnosed in order to receive funding. When children do meet eligibility criteria, they only receive limited support unless they are part of a special education class.</p>
TAS	<p>In Tasmania, there are no occupational therapists employed directly by the Department of Education, however some OTs do consult with students and are able to do work in schools. These OTs provide advice and information as requested and provide services to schools via referrals. Services may be individually secured for specific children on an ad hoc basis.</p> <p>OTs who work with children and their families in hospitals and clinics (through the Better Access to Mental Health Care initiative, for example) often undertake assessments, provide services and make recommendations that are relevant to a child's schooling, however this information may not be available to school-based teams due to factors such as privacy concerns.</p> <p>With the development of the Tasmanian NDIS pilot, OT feedback is being sought and provided, but at a strategic level there is no active link into schools.</p> <p>OTA received the following feedback from an occupational therapist working in a rural and regional setting:</p> <p>The level of interaction OTs have with students depends on the teacher and school principal – the relationship that a therapist has with staff is critical. OTs have multiple clients at some schools and none at others. Services in schools typically work best when one therapist has multiple clients, as it becomes almost like a 'mini clinic' when they visit the school. This would be quite difficult to reproduce in the NDIS model, where providers are funded to see one client for one particular issue.</p>
NT	<p>Information about therapy services provided by the Department of Health and Families in conjunction with the Department of Education is available here:</p> <p>http://www.education.nt.gov.au/students/support-assistance/special-education-disability/therapy-services</p>
ACT	<p>Occupational therapists are not employed by the Education and Training Directorate, the Catholic Education Office, or independent schools. As there are no school-based services in the ACT, occupational therapy services are completely integrated between home and school. Therapy goals are designed around the individual needs of the child and are implemented in the environment in which the activity is most likely to occur. A</p>

	<p>consultative model is used when a goal relates to an activity that takes place in the school environment.</p> <p>Although there are overarching departmental guidelines, schools in the ACT are run by the principal. Often, school principals allocate a staff member to work with occupational therapists from Therapy ACT (an ACT Government service within the Community Services Directorate) if they are not directly involved themselves.</p> <p>The Therapy Assistants Project (TAPs) program was developed and implemented by Therapy ACT staff in 2011. It involves occupational therapists, physiotherapists and speech pathologists working with Therapy Assistants to deliver therapy programs to children in the school setting. Therapy ACT is due to close in 2016 as a result of the transition of therapy services to the NDIA.</p> <p>Private practice occupational therapists are allowed on site at the discretion of the school principal.</p>
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OTA would like to extend its thanks to the Committee for the opportunity to submit to this inquiry and to attend a public hearing. We would be more than happy to provide further clarification on any of the matters we have raised should this be required.

Kind Regards

Nicole O'Reilly
Board Director
Occupational Therapy Australia

Helen Bourke-Taylor PhD
Education and Disability Industry Adviser
Occupational Therapy Australia

Rachel Norris
Chief Executive Officer
Occupational Therapy Australia

EDUCATION AND EMPLOYMENT REFERENCES COMMITTEE HEARING – 29 SEPTEMBER 2015
ANSWER TO QUESTION ON NOTICE

Reference No: SQ15-000123

STATISTICS FOR CHILDREN ELIGIBLE FOR THE NDIS AT FULL SCHEME

CHAIR:...How many children would be on a full rollout eligible for support under the NDIS, and are those children also at school or early education? Do you have a figure for that?

Ms Skordis: I do not have that figure. I can take that on notice and get the information back to you.

...

CHAIR: How many school age children are and will be on the full rollout and eligible for support under the NDIS?

Ms Skordis: Again, that is one I will have to take on notice. I will get back to you on that.

CHAIR: But is there a number?

Ms Skordis: Yes. We will be able to estimate. From the potential population of 460,000 who are eligible, we will be able to do age breakdowns, yes.

CHAIR: Can you provide a breakdown of the level of adjustments those children will require?

Ms Skordis: ...We will be able to differentiate by disability type and the potential population and so have some sense of how many are, say, from cerebral palsy, intellectual disability or other disability types. I think that is about the most we would be able to provide at this point.

CHAIR: If you could provide that, that would be good.

Ms Skordis: We could also provide data from our trial sites on what has occurred within trial sites, if that is beneficial.

CHAIR: That would be helpful.

Answer:

The Productivity Commission Inquiry into Disability Care and Support estimated in 2009 that there were approximately 411,000 people who would be eligible for the National Disability Insurance Scheme (NDIS) and of these, approximately 121,000 (or just over 29 per cent) would be aged 0-14 years.

In trial to date, there has been limited experience across the full range of age groups to be able to confirm these initial assumptions. The Newcastle local government area and the Barwon trial site are the only two trial locations where the full potential population has had the opportunity to have entered the NDIS as per the phasing arrangements.

Analysis of these populations as at 30 June 2015 suggests that approximately 29 per cent of the population is aged 5-18 years (school aged). Of these:

- almost half have autism;
- almost one quarter have an intellectual disability;
- just under 10 per cent have a developmental delay;
- 5 per cent have Down syndrome;
- 5 per cent have cerebral palsy; and
- 5 per cent have sensory condition.

The remaining participants have other physical, neurological or mental health conditions.

EDUCATION AND EMPLOYMENT REFERENCES COMMITTEE HEARING – 29 SEPTEMBER 2015
ANSWER TO QUESTION ON NOTICE

Reference No: SQ15-000124

JOINT PLANNING FOR NDIS PARTICIPANTS – BARWON TRIAL SITE

Senator SIEWERT: I would like to understand the issue around the potential of the joint plan or the development of the template that is then used to develop a joint plan. There are a couple of points there. One is: how is that working? Also, we were discussing this morning issues around the privacy of somebody's plan. How is that addressed?

Ms Skordis: The issue of privacy is a lot easier. We consider that the plan is owned by the person, and each individual chooses the extent to which their plan is shared with any other person. For a young adult, that also includes the extent to which their family may see their plan. That is very clear for us within our legislation and within our operating parameters—we will only share those elements of a person's plan that they have agreed can be shared. Around joint planning, what we are doing and exactly how that is working, I am happy to take that on notice and provide more detail.

Senator SIEWERT: That would be appreciated.

Answer:

Both the National Disability Insurance Agency (NDIA) and the education sector are responsible for planning and discussions with families to address needs and goals for children of school age with disability.

For the education sector in Victoria, an Individual Learning Plan is developed by schools which captures any reasonable adjustment required for the child in the school environment and supports educational learning and monitoring of progress. This is consistent with the COAG agreed education interface. For the sustainability of the National Disability Insurance Scheme (NDIS), it is important that these responsibilities are maintained and that parents understand what they can expect from their school.

In contrast, the NDIS plan is required to take a holistic view of the needs of the child to understand the impact of impairments on the achievement of developmental goals and engagement with community participation options.

Given the potential for duplication and the risk that families would have to replicate provision of information to multiple parties, the concept of a shared joint plan was considered with families, schools and funded providers.

Parents want to control the information that is shared and are concerned that a process that collapsed planning for all of their needs into the one combined process would potentially impact the participant and family's right for confidentiality across home and education. Parents have conveyed a very strong view that their needs would be better served through improved communication between the NDIA and the schools.

Parents have expressed a preference for protocols to be established between the Department of Education and the NDIA to facilitate the sharing of goals and strategies for their child, close communication and seamless processes. Where therapy and learning goals overlap, parents are keen to explore opportunities to share strategies between home and education, allowing for the student to be supported across all environments

Based on these preferences, Principals from a sample of both mainstream and special schools were surveyed to explore how best to achieve these outcomes. A range of practical issues have been identified and the project is looking to develop solutions for these including, options for consultation and simple tools, such as electronic templates and time allocation built into the child's NDIS plan. Solutions are also being sought for important issues such as balancing demand on hours at school without negatively impacting on education opportunities, as well as expectations of school staff and the responsibility of who coordinates the time and space.

Based on these combined issues, providers of funded supports to children with disability were also surveyed to explore how therapy and behaviour strategies could be designed to support and integrate with education developmental goals.

The Association for Children with Disability is now developing a parent resource tool which will assist parents with the school and NDIA interface. A Best Practice Guide is being developed by the project working group.

A full report of the project and findings is anticipated to be completed by the end of November 2015.

EDUCATION AND EMPLOYMENT REFERENCES COMMITTEE HEARING – 29 SEPTEMBER 2015
ANSWER TO QUESTION ON NOTICE

Reference No: SQ15-000125

OCCUPATIONAL THERAPY WORKING GROUP

Senator SIEWERT: We were talking this morning about the occupational therapists who have approached the NDIA to set up a working group to look at that interface. I understood it is broader than just the Barwon trial while the NDIS is being rolled out. I understand that is a proposal before you. Where are you up to with thinking about that one?

Ms Skordis: That is not a proposal that I am aware of, so I will have to take that one on notice and find out about that.

Senator SIEWERT: Okay. Thank you.

Answer:

The National Disability Insurance Agency (NDIA) has regular consultation with Occupational Therapy Australia, addressing a range of issues of interest of the profession in relation to the National Disability Insurance Scheme (NDIS). These consultations occur within broader stakeholder consultations with many allied health professionals through their peak body, Allied Health Professions Australia (AHPA).

Children receiving funded supports through the NDIS can have occupational therapy included in their plans for provision of therapy related to goals, primarily outside the education system, but nevertheless requiring coordination and integration of services. Therapists who work within the education system, may also work with children in other settings and out of school hours.

The NDIA is engaged in ongoing work around interface issues, including education. As part of this ongoing work, there is likely to be benefit of formal dialogue to discuss therapy related issues with the relevant departments of education. There are a number of emerging issues which could be usefully discussed with all stakeholder groups. While to date there has been no formal proposal from professional associations, including Occupational Therapy Australia, around this issue, the relevant groups will be consulted and included in discussions.

EDUCATION AND EMPLOYMENT REFERENCES COMMITTEE HEARING – 29 SEPTEMBER 2015
ANSWER TO QUESTION ON NOTICE

Reference No: SQ15-000126

INFORMATION LINKAGES AND CAPACITY BUILDING FOR STUDENTS – UPDATE ON PROGRESS

Senator SIEWERT: Thank you. I am just wondering if I can lob a question on notice in around tier 2. Are you looking at how that process interfaces with education and that link as well? When we have been having these discussions I have been assuming that we have been just talking about the eligibility for—

Ms Skordis: Yes, and I think that relates to my earlier commentary around the dataset. There are a range of people with disability who will not receive individual funding supports but at some point someone needs to keep an eye on what is happening for those children. So information linkages and capacity building fit in and support some of that, yes.

Senator SIEWERT: So can you take on notice to look at where we are up to?

Ms Skordis: Yes. Absolutely.

Answer:

All governments around Australia have agreed to a set of principles to guide the interaction of the National Disability Insurance Scheme (NDIS) with other service systems. The principles recognise that building an inclusive Australian society represents a shared enterprise – between all levels of Australian governments, non-government organisations, business and the wider community. The principles are used to determine the funding and implementation responsibilities of the NDIS and other service systems, such as health, early intervention and education.

For students with disability, the principles articulate the respective responsibilities of schools and the NDIS. Schools will be responsible for supports that primarily relate to the educational attainment of students with disability, while the NDIS will fund supports that are associated with the functional impact of the student's disability on daily life (such as personal care).

These same principles also inform the implementation of Informational, Linkages and Capacity Building (ILC), previously known as Tier 2, and the scope of its role in promoting education outcomes for children and people with disability.

The ILC Policy Framework has now been agreed by all governments across Australia. There are two main areas of effort described in the Framework:

- Support for people with disability and their families to build their capacity and confidence to participate in the community or access the same kind of programmes and services as other people in the community. The type of support provided will depend on the individual and their needs and will be available whether or not a person also has an individualised funding package through the NDIS.
- The second area of effort is about helping services, programmes and organisations become more inclusive of people with disability

The ILC Policy Framework is clear that ILC supports are not intended to replace effort by mainstream systems, such as education, to meet the needs of people with disability. All governments have a shared responsibility to deliver on the outcomes articulated in the National Disability Strategy. ILC should not replace or duplicate this effort but should instead enhance or bolster other initiatives.

The ILC Policy Framework provides general guidance on how ILC should be implemented. It does not, for example, articulate expected outcomes for ILC or how success should be measured. The National Disability Insurance Agency (NDIA) is therefore developing a Commissioning Framework which will outline its intended approach to sourcing ILC supports and services.

The Commissioning Framework will outline the outcomes expected to be achieved by ILC investments and how those outcomes will be measured. As an insurance scheme, the NDIS looks to invest in those services and supports that produce the best outcomes for people with disability, increasing their social and economic participation. This is also true of ILC. The pool of funding available for ILC has been determined by governments, and the NDIA will work with the community and sector to prioritise those supports and services that make a demonstrated difference to people's lives.

As the NDIA implements an outcomes-based approach to ILC it will seek to understand which sorts of individual or community interventions make the greatest contribution to improving inclusion in education for children or young people with disability.

EDUCATION AND EMPLOYMENT REFERENCE COMMITTEE HEARING – 29 SEPTEMBER 2015
ANSWER TO QUESTION ON NOTICE

Reference No: SQ15-000127

OUTCOMES FRAMEWORK

Ms Skordis: The other thing that aligns with that that I mentioned earlier—and again I am happy to provide you with more information on this—is our outcomes framework. There are some elements within the outcomes framework. Again this is almost like a longitudinal dataset and information that we will be building up. The NDIS is not just about funding supports; it is actually about achieving outcomes for a person with a disability. We need to understand on what basis we are actually measuring that over time. There are some components of that that are about how well a child is achieving, so it is not specific to the educational settings or educational outcomes but I believe there is a component that does assist with then providing information that we can use over time to inform education systems where we believe there are some issues around outcomes.

Senator SIEWERT: Thank you.

Answer:

The National Disability Insurance Agency (NDIA) has established an Outcomes Framework that collects information from participants and families and carers on how they are progressing in different areas of their lives. This will allow tracking of individual participants' progress over time. By aggregating information from all participants, it will also allow the NDIA to monitor overall National Disability Insurance Scheme (NDIS) progress, and to benchmark against the experience of Australians without disability and against other OECD countries. Combined with information about the supports participants are receiving, it will allow the NDIA to understand what types of supports lead to good outcomes, to identify any barriers to the achievement of goals, and to inform participants and providers.

Information on outcomes will be collected using questionnaires that have been developed following extensive work with experts and stakeholders. Different questionnaires have been developed for different age groups, and Easy English versions have been developed for participants with intellectual disability/cognitive impairment. There are also questionnaires for families and carers. The questionnaires for adult participants collect information about eight domains of life: choice and control, daily living activities, relationships, home, health and wellbeing, lifelong learning, work, and social, community and civic participation.

The Outcomes Framework was developed with the input of key stakeholder groups, including the National Disability Insurance Scheme (NDIS) Independent Advisory Council. Feedback from stakeholders and analysis of the results of a pilot study conducted earlier in 2015 was used to improve the Framework.

Attachment A shows the different versions of the questionnaires and the participant and family domains across which these questionnaires are conducted.

Table 0.1 Questionnaire versions

Participant age	Participant standard	Participant Easy English (EE) / Pictorial	Family / carer
0 to school	Participant 0-school		Family 0-14 years
School to age 14 years	Participant school-14 years		Family 0-14 years
15 to 24 years	Participant 15-24 years	Participant 15-24 years EE	Family 15-24 years
25 to 55 years	Participant 25-55 years	Participant 25-55 years EE	Family 25 years and over
Over 55 years	Participant over 55 years	Participant over 55 years EE	Family 25 years and over

Table 0.2 Participant domains

Domain	0 to school	School to 14 years	15 and over
1	Children gain functional, developmental and coping skills that are appropriate to their ability and circumstances	Children grow in independence	Choice and Control
2	Children show evidence of self-determination in their everyday lives	Children are welcomed and educated in their local school	Daily Living Activities
3	Children participate meaningfully in family life	Children form friendships with peers and have positive relationships with their family	Relationships
4	Children participate meaningfully in community life	Children participate in local social and recreational activities	Home
5	Specialist services assist children to be included in families and community		Health and Wellbeing
6			Lifelong Learning
7			Work
8			Social, community and civic participation

Table 0.3 Family domains

Domain	0 to 14 years	15 to 24 years	25 years and over
1	Families understand their children's strengths, abilities and special needs	Families understand their young person's strengths, abilities and special needs	Families have the support they need to care
2	Families know their rights and advocate effectively for their children with disability	Families know their rights and advocate effectively for their young person with disability	Families know their rights and advocate effectively for their family member with disability
3	Families help their children develop and learn	Families help their young person become independent	Families are able to gain access to desired services, programs, and activities in their community
4	Families feel supported	Families feel supported	Families have succession plans
5	Families are able to gain access to desired services, programs, and activities in their community	Families are able to gain access to desired services, programs, and activities in their community	Families enjoy health and wellbeing
6	Families enjoy health and wellbeing	Families enjoy health and wellbeing	

Senate Education and Employment References Committee
Questions on Notice to ACHRA– Tuesday 29 September 2015
Melbourne, VIC
Inquiry into students with disabilities

1. HANSARD, PAGE 45-46

Senator McKENZIE: Your submission noted that there was a significant variation in the legislative protection available to students with disability in different states. Are certain states or territories better than others for students with a disability? If so, why? Also, I would appreciate a bit of a list. I am finding it really difficult to get this information. I ask every national advocacy body. I would appreciate your comments.

Ms Dixon: I have to admit that I may be about to disappoint you again. Off the top of my head—

Senator McKENZIE: Ah, the Federation!

Ms Dixon: We have outlined in our submission the differences across the jurisdictions, but ultimately we based our research on the standards as an overarching framework, which I think is probably the most helpful.

Senator McKENZIE: But then surely you have got to measure the states against that for those that are close, those that exceed and those that fall far short.

Mr Alban: In some respects we can comment a bit generally now.

Senator McKENZIE: Maybe on notice?

Mr Alban: Yes, on notice.

Senator McKENZIE: That would be great.

Mr Alban: Given that ACARA members were presenting as an entire cohort mindful that here we are, working together on this exercise and yet we have these variations in our definitions. I am sure there are pretty firm views from the members themselves. The general preference was to express it as a review of those laws in terms of consistency with the Convention on the Rights of Persons with Disabilities. I am sure there are views on the protections, the exceptions, the consistency of those and the coverage of them that we can give more detail on—certainly on notice.

Senator McKENZIE: Thank you so much.

ANSWER:

With regards to the request, I note there were two elements:

ACHRA was asked to provide information on protections across the country and whether any particular laws are 'better' than others.

ACHRA was asked to provide a clear summary of differences in the legislation across the country - including a list - to assist the Committee.

The first request essentially involves a detailed analysis and review exercise and ACHRA believes such a request aligns with its recommendation 29 in the submission, namely, 'that a review should be conducted to assess the consistency of current disability discrimination law with the Convention on the Rights of Persons with Disabilities.

The reason it was framed that way is that it is not a small or simple task and requires resourcing and appropriate research capacity. ACHRA does not have such resourcing or capacity. We urge the Committee to consider and reiterate our recommendation 29.

*The second request is similar to the first in its terms and also in that it would require comparative analysis of legislation. I note the text, *Discrimination Law and Practice*, 4th edition, by Chris Ronalds and Elizabeth Raper, provides a summary comparison of a range of legislative features in its Appendices. I also note *Australian anti-discrimination law* by Neil Rees, Simon Rice and Dominique Allen provide comparative analysis on the operation of the law. In the event the Committee sets out what it wants a summary of differences to cover and what the list would cover, it may be possible for the Committee to engage an academic researcher with relevant expertise in discrimination law to prepare such a summary.*

I am sorry ACHRA and its members do not have the resources or research capacity to respond to this request of the Committee.

Senate Education and Employment References Committee

Question on Notice

Senate Inquiry into current levels of access and attainment for students with disability in the school system, and the impact on students and families associated with inadequate levels of support

Department of Education and Training Question No. 1

Senator McKenzie asked on 29 September 2015, Proof Hansard page 50

National Catholic Education Commission and CPI funding

Question

CHAIR: Can you take it on notice to talk to the Catholics about the comments they made at the Senate hearing about schools closing through CPI funding.

Mr Cook: I can certainly talk to them. I can also give some information about what we understand some of the drivers are at the moment. If you look at the drivers of school costs—

CHAIR: No, I am just interested in—

Mr Cook: I need to comment about what they have said. In terms of drivers of school costs—

CHAIR: No, Mr Cook, I will ask the questions. I have asked that question. You were not able to answer. I asked you directly whether the Catholics were wrong. You said you are not able to do that.

Mr Cook: I can comment on their comment.

CHAIR: So I am asking you to review the *Hansard* in relation to what they said, and then take on notice to speak to them and come back to the committee, because the evidence is on the *Hansard* and you can review that.

Mr Cook: To clarify, are you asking me to advise the committee about why the Catholics—

CHAIR: The Catholics came to the Sydney hearing and made a clear statement that schools would close. Other schools have said that too. Given the Catholic system is our—

Senator McKENZIE: It is very hard to pin them down, though, on the assumptions they were using to make those claims.

CHAIR: When you have your turn, Senator McKenzie, you can explore your lines of questioning. They are a large provider of schools—the second largest provider of schools in the country. They made that statement. They are not idiots, presumably. They know what they are talking about. I am simply asking you to review what they said on the *Hansard* and either make a comment about that or, if there is not enough information there, talk to them and come back to us so you can answer the question as to why the Catholic system has said that.

Mr Cook: Right. I am happy to do that. I will take it on notice and come back to you again.

Answer

The department has reviewed the *Hansard* and the National Catholic Education Commission (NCEC) did not say that schools would close.

Commonwealth school funding continues to grow year on year, with funding to the Catholic sector estimated to increase nationally by approximately 22 per cent from 2014 to 2017.

The department has considered the National Catholic Education Commission comments in *Hansard* and can add the following:

- The 2014–15 Budget reflected the whole-of-government decision to apply the Consumer Price Index (CPI) to all large, demand-driven Commonwealth funding programmes to the already substantial investment in Commonwealth schools funding over the 2014 to 2017 funding period.
- The Commonwealth position provides a fiscally responsible and sustainable base for negotiations with states, territories and the non-government sector about needs-based funding arrangements, including indexation, beyond 2017.
- The previous indexation arrangements applied changes in the Average Government School Recurrent Costs (AGSRC) to Commonwealth recurrent funding for schools. The AGSRC reflected average per student expenditure in government schools and therefore rewarded increased expenditure with higher indexation.
- Salaries are the major cost driver for schools, representing about 80 per cent of expenditure by schools.
- From 2010 to 2013, teacher salaries increased nationally by around only 2.7 per cent (primary teachers) and 3.0 per cent (secondary teachers).
- The Commonwealth does not have a role in setting tuition fees for schools.

Senate Education and Employment References Committee

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Department of Education and Training Question No. 2

Senator Siewert asked on 29 September 2015, Proof Hansard page 51-52

State and territory reporting indicating that funding provided by the Australian Government has been used for the purpose of providing school education

Question

Mr Cook: To help you, I have written to every state government department of education. It is a requirement for the non-government sector to provide advice to the Commonwealth as to how they have allocated that funding by the loading to each of their schools in Australia. I am still waiting to hear back from some of the states in relation to that, but that is a requirement under the act.

Senator SIEWERT: So it is a requirement under the act, but for what period of time can't you say whether the states and the system—because I presume you are doing that to each of the systems—

Mr Cook: That is correct.

Senator SIEWERT: have responded. Firstly, can you tell us who has responded?

Mr Cook: I would have to take that on notice because it has basically been in the last few weeks that we have been getting letters back.

Senator SIEWERT: Could you take on notice who has responded?

Mr Cook: Sure.

Senator SIEWERT: I presume you have written to the Catholic system as a whole—

Mr Cook: Yes.

Senator SIEWERT: To the Anglicans?

Mr Cook: Yes.

Senator SIEWERT: To the other independents?

Mr Cook: Yes.

Senator SIEWERT: And the states and territories?

Mr Cook: For the non-government sector it has been part of their usual practice. This is not unusual for them other than the fact that there is the loading component. They are used to reporting to the Commonwealth. We have something called the green book that we publish every year that outlines how much money has gone to the non-government sector. They are used to that, so I did not have to formally write to them, whereas the state sector is new under the Australian Education Act so I formally wrote to all the state education departments. I think we got most of them in but I am happy to take on notice those to date.

Senator SIEWERT: Yes, if you could take that on notice.

Answer

As at 23 October 2015:

- All states and territories have provided a certificate indicating that funding provided by the Commonwealth under the *Australian Education Act 2013* in 2014 have been used for the purpose of providing school education.
- All jurisdictions, with the exception of WA and ACT, have provided details of how funding provided under the *Australian Education Act 2013* has been distributed to their schools. The ACT has indicated that school level distributions will be made available on 23 October 2015.
- Participating jurisdictions (NSW, SA and ACT) are also required to break the school level distribution into base and loading amounts. NSW has complied with this requirement, SA and ACT have indicated that they will provide the base and loading details but require additional time.

Senate Education and Employment References Committee

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Department of Education and Training Question No. 3

Senator Siewert asked on 29 September 2015, Proof Hansard page 59-60

National complaints process as part of the Disability Standards for Education 2005

Question

Senator SIEWERT: There have been a lot of calls for a national complaints process. Obviously hearing that is not new to you. Has there been any consideration or discussion nationally to have a national complaints process?

Mr Cook: Not within the department, but again that is probably part of the advice that we are providing our minister at the moment if that is one of the findings from the report of the review that has happened.

Senator SIEWERT: Is that one of the issues that came up in the review process?

Mr Cook: I will have to take that on notice, if that is okay. I have not got fully every single issue that came up. I am very happy to take that on notice and provide advice.

Senator SIEWERT: It would be appreciated if you could.

Mr Cook: Yes. I am very happy to do that.

Answer

Complaints processes were raised in the 2010 Review of the Disability Standards for Education 2005. Options were considered as part of the proposed Consolidation of Commonwealth Anti-Discrimination Laws led by the Attorney General's Department. Following extensive consultation and inquiry by the Senate Legal and Constitutional Affairs Committee it was determined that the proposed consolidation not proceed.

Further discussions have occurred between the Department of Education and Training, the Attorney-General's Department, and state and territory education authorities. Through these discussions it was confirmed that enforcing compliance with legislation is the role of the Australian Human Rights Commission and state/territory anti-discrimination boards. It is not the role of education authorities and any changes would be inconsistent with current government policies of deregulation.

Complaints processes were raised by a number of stakeholders during consultation sessions and in their written submissions to the 2015 Review of the Standards.

Further information will be available in the final report of the 2015 Review of the Standards.

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Department of Education and Training Question No. 4

Senator Siewert asked on 29 September 2015, Proof Hansard page 63

National Disability Insurance Scheme individualised packages

Question

Senator SIEWERT: In terms of your participation through the NDIA/NDIS process, how actively are you engaged with them at a Commonwealth level?

Mr Cook: We have some involvement with DSS, but basically we work around the principles that COAG agreed a couple of years ago. There are principles around education which talk predominately in terms of school needs effectively still being met by the education sector and education budget and other needs—life skills and things like that—outside the school environment being met by the NDIS/NDIA process. We want to learn from the trials that currently exist to see whether there is a better intersection between some of those areas, but it is pretty early days for us at this point.

Senator SIEWERT: So there is a group of students who will get NDIS individualised packages and those who fall outside that that still will have specific needs.

Mr Cook: Funded through the education system.

Senator SIEWERT: Do you know what proportion of—

Mr Cook: No, I do not. I am happy to take that on notice, but I do not think we will have that data.

Senator SIEWERT: If you could take that on notice—

Mr Cook: If we can provide it, we would be very happy to.

Senator SIEWERT: That would be very much appreciated.

Answer

The Department does not have this information.

**Senate Education and Employment References Committee
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Department of Education and Training Question No. 5

Senator Siewert asked on 29 September 2015, Proof Hansard page 53

PricewaterhouseCoopers Reports

Question

Mr Cook: There are a few things. If I start back at the beginning: as I mentioned in my opening statement, it was in about 2008 that COAG agreed that we would collect this data. For that purpose, it was actually about publishing the data on the My School website. The process had begun. The Education Council then decided that for the purposes of funding we would use this process, rather than actually develop a whole new process. On a yearly basis we have been doing something called a 'process improvement project', which actually looks at the data collection and which works with groups of schools about how they made judgements, basically to try to moderate them. So we are aware of the data quality issues.

That is why we have developed training materials. That is why states and territories have been working with schools in relation to this. So, we have put a number of things in place. PricewaterhouseCoopers has been working with us on that. I think some of those reports might be public; I am not sure. We can take in on notice to see whether they are. But basically it is recognising that the data in the initial years may be not as stable as we would like and asking what we can do to try to address those issues. We have been putting projects in place to try to address that.

Answer

The following reports, prepared by PricewaterhouseCoopers on behalf of the Joint Working Group to Provide Advice on Reform the Students with Disability, are publicly available.

Report	Publicly available at
2011 Trial report on the Nationally Consistent Collection of Data on School Students with Disability	http://www.education.gov.au/background-information-national-data-collection
2012 Trial Report on the Nationally Consistent Collection of Data on School Students with Disability	http://www.education.gov.au/background-information-national-data-collection