



**Submission made by  
the Julia Farr Association**

**Review of Disability Standards for  
Education 2005**

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The Julia Farr Association makes this submission to the Australian Government's review of the Disability Standards for Education 2005.

## **1.0 PURPOSE**

The purpose of our submission is to highlight ways in which the Disability Standards for Education 2005 can be further strengthened to "ensure that students with disability are able to access and participate in education on the same basis as other students"<sup>1</sup>.

## **2.0 SUMMARY OF RECOMMENDATIONS**

- R1** *Use the United Nations Convention on the Rights of Persons with Disabilities as the context for the Disability Standards for Education.*
- R2** *Consider and respond to the concerns, views and suggestions highlighted by students living with disability, families, and other key stakeholders resulting from the survey including the need to:*
- *Raise awareness about students living with an Autism Spectrum disorder and the additional supports they may require;*
  - *Raise awareness about the rights of students living with disability;*
  - *Assess the support needs of students living with disability on an individual basis.*
- R3** *Use terminology that is easy to read and understand.*
- R4** *Provide more information about what constitutes reasonable adjustment.*
- R5** *Introduce an independent body (with membership including people living with disability) to:*
- *Undertake audits of education providers to assess compliance with the Disability Standards for Education;*
  - *Oversee decisions made about reasonable adjustment and unjustifiable hardship.*
- R6** *Provide training to students living with disability, families, education providers and other key stakeholders to raise awareness about the Disability Standards for Education.*
- R7** *Convert current suggested measures of compliance to more definitive and accountable key performance indicators to ensure compliance of education providers.*

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<sup>1</sup> Australian Government 2010, *Review of Disability Standards for Education 2005. Discussion paper*, Commonwealth of Australia, Canberra, p. 7.

### 3.0 INTRODUCTION

The Julia Farr Association and its predecessor organisations have been involved with the disability community and older persons for over 130 years. The Julia Farr Association is an independent, non-government entity based in South Australia that fosters innovation, shares useful information, and promotes policy and practice that support vulnerable people to access the good things in life. We are not a service provider – we deliver research, evaluation and information services that are anchored upon the stories shared by people living with disability and other people in their lives. As such, we feel we are in a good position to offer comment and analysis without vested interest.

The Julia Farr Association believes that the present review is timely in the current environment. There is growing demand for students living with disability to access and participate in education, with the number of students living with disability attending government and non-government schools increasing from over 133,000 students in 2006<sup>2</sup> to over 150,000 students in 2008<sup>3</sup>. Further, there is international emphasis on ensuring that students living with disability “are not excluded from the general education system on the basis of disability, and that children with disabilities are not excluded from free and compulsory primary education, or from secondary education, on the basis of disability”<sup>4</sup> through the United Nations Convention on the Rights of Persons with Disabilities ratified by the Australian Government in July 2008.

The present review provides the opportunity to assess ways in which the Disability Standards for Education can further advance and uphold the rights and aspirations of students living with disability.

The approach to our submission is in two parts:

- Asserting that the United Nations Convention on the Rights of Persons with Disabilities (hereinafter referred to as the ‘UNCRPD’) be the context for the Disability Standards for Education, and examining the implications this context has on the standards.
- Reporting the results of Julia Farr Association’s consultation about the Disability Standards for Education 2005.

### 4.0 UNCRPD AS CONTEXT FOR THE DISABILITY STANDARDS FOR EDUCATION

Since the Disability Standards for Education were introduced in 2005, the Australian Government has ratified the UNCRPD which asserts that “State Parties realise the rights of people living with disability to education without discrimination through ensuring “an

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<sup>2</sup> Australian Institute of Health and Welfare 2007, *Australia’s welfare 2007*, Cat. No. AUS 93, AIHW, Canberra.

<sup>3</sup> Australian Institute of Health and Welfare 2009, *Australia’s welfare 2009*, Australia’s welfare series no. 9, Cat. No. AUS 117, AIHW, Canberra.

<sup>4</sup> United Nations n.d., *Convention on the rights of persons with disabilities and optional protocol*, <<http://www.un.org/disabilities/documents/convention/convoptprot-e.pdf>>, p. 17.

inclusive education system at all levels”<sup>5</sup>. Therefore, we believe the review of the standards should have the UNCRPD as its main context.

In which case, we assert the main measure of quality - the gold standard - should be:

*Every Australian child living with disability should have the genuine choice of getting a successful, inclusive education at their local neighbourhood preschool and school;*

and,

*Every Australian post-secondary student should have the genuine choice to attend that post-secondary education facility most suited to their career aspirations, just like their non-disabled peers.*

#### **4.1 Implications of the UNCRPD for the current Disability Standards for Education**

The current Disability Standards for Education 2005 include statements “of the rights, or entitlements, of students with disabilities in relation to education and training, consistent with the rights of the rest of the community”<sup>6</sup>. These are general statements which highlight that students have a right, on the same basis as other students, to:

- Enrol in an educational institution;
- Participate in courses or programs and use services and facilities provided by an education provider;
- Participate in courses or programs designed to develop their knowledge, experience and skills;
- Access specialised services to participate in educational activities for which they are enrolled.

However, as these are only general statements, the Julia Farr Association believes that the Disability Standards for Education need to place greater emphasis on ways in which education providers can promote and protect the rights of students living with disability. We therefore believe the UNCRPD should provide the context for the standards.

Article 24 of the UNCRPD, which specifically focuses on education, emphasises what is required of State Parties to enable people living with disability to realise their right to education:

“State Parties shall ensure that:

- a) Persons with disabilities are not excluded from the general education system on the basis of disability, and that children with disabilities are not excluded from free and compulsory primary education, or from secondary education, on the basis of disability;

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<sup>5</sup> United Nations n.d., *Convention on the rights of persons with disabilities and optional protocol* <<http://www.un.org/disabilities/documents/convention/convoptprot-e.pdf>>, p. 16.

<sup>6</sup> Disability Standards for Education 2005, <http://www.comlaw.gov.au/Details/F2005L00767>, p. 4.

- b) Persons with disabilities can access an inclusive, quality and free primary and secondary education on an equal basis with others in the communities in which they live;
- c) Reasonable accommodation of the individual's requirements is provided;
- d) Persons with disabilities receive the support required, within the general education system, to facilitate their effective education;
- e) Effective individualised support measures are provided in environments that maximize academic and social development, consistent with the goals of inclusion"<sup>4</sup>.

We believe that the current Disability Standards for Education do not adequately detail what education providers are required to do to ensure students living with disability are afforded their right to education "without discrimination and on the basis of equal opportunity"<sup>7</sup> as asserted in the UNCRPD. We therefore submit the following commentary on how the standards can uphold the UNCRPD.

#### **4.1.1 Part 3 – Making reasonable adjustments**

We believe that the Disability Standards for Education need to have increased emphasis on ensuring education providers attend to all aspects that can support students living with disability to access opportunities on the same basis as their non-disabled peers. The standards need to assert that education providers focus on adjustments that specifically support:

- Physical access
  - “State Parties shall take appropriate measures to ensure to persons with disabilities access, on an equal basis with others, to the physical environment, to transportation, to information and communications, including information and communication technologies and systems, and to other facilities and services open or provided to the public, both in urban and in rural areas” (UNCRPD, Article 9 – Accessibility, p. 9);
- Sensory access
  - “State Parties shall take appropriate measures, including: (a) Facilitating the learning of Braille, alternative script, augmentative and alternative modes, means and formats of communication...” (UNCRPD, Article 24 – Education, p. 17);
- Scheduling that is responsive to the individual needs of students living with disability
  - “State Parties shall ensure that: ... (d) Persons with disabilities receive the support required, within the general education system, to facilitate their effective education” (UNCRPD, Article 24 – Education, p. 17).

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<sup>7</sup> United Nations n.d., *Convention on the rights of persons with disabilities and optional protocol*, p. 16  
<http://www.un.org/disabilities/documents/convention/convoptprot-e.pdf>.

#### 4.1.2 Part 4 – Standards for enrolment

In regards to enrolment, the Australian Human Rights Commission states that “Educators must base their decisions on a person’s ability to meet the essential requirements of the course. They should not make assumptions about what a person can or cannot do because of a disability”<sup>8</sup>. The importance of this is underscored by the UNCRPD which states that students living with disability should not be “excluded from the general education system on the basis of disability”<sup>4</sup>. Therefore, we believe that this needs to be further strengthened in the standards to ensure students living with disability have equal access to education opportunities, especially in terms of how performance against this standard can be properly tested.

#### 4.1.3 Part 5 – Standards for participation

The current standards are helpful in setting out what is in essence a tailored educational pathway. However, by itself, it is not enough to ensure participation of people living with disability in the life of that education community. Many students living with disability experience social isolation in mainstream education settings, and this can result in the student’s abandonment of their studies, or placement in a segregated ‘special’ education service that is counter to the UNCRPD and ultimately damaging to the student’s prospects for a real life of active citizenship. Active citizenship “refers to an active lifestyle that has the prospect of fulfilment for the person concerned. Such a lifestyle is one where, as part of a personally defined set of lifestyle choices, the person is in and part of their local community, contributing and growing through involvement in meaningful valued activities, and participating in a network of relationships characterised by acceptance, belonging and love”<sup>9</sup>.

The standards therefore need to be reframed to include the goal of social inclusion, so that the student living with disability has an authentic sense of membership and belonging. This is particularly important for students living with the types of impairment that leave them more vulnerable to being shunned and isolated. The standards must assert that there be proactive arrangements to support social inclusion in such situations. Practical initiatives may include Circles in Schools<sup>10</sup>, buddy programs<sup>11</sup> and youth mentorship<sup>12</sup>.

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<sup>8</sup> Australian Human Rights Commission n.d., ‘D.D.A. guide: Getting an education’, [http://www.hreoc.gov.au/disability\\_rights/dda\\_guide/getting\\_getting.html](http://www.hreoc.gov.au/disability_rights/dda_guide/getting_getting.html), p. 1, viewed 13 April 2011.

<sup>9</sup> Williams R 2010, *Model of citizenship support. Discussion paper*, Julia Farr Association, Unley, South Australia, p. 3.

<sup>10</sup> Melbourne City Mission, <http://www.melbournecitymission.org.au/>

Inclusive Solutions <http://www.inclusive-solutions.com/>

<sup>11</sup> Best Buddies Australia, <http://www.bestbuddies.org.au/>

<sup>12</sup> YWCA NSW Supporting People at Critical Times, [http://www.ywcansw.com.au/in\\_school\\_mentoring.php](http://www.ywcansw.com.au/in_school_mentoring.php)

Julia Farr Youth Mentor Program - *This volunteer Mentor Program is aimed at youth between 11-16 who live with disability and who will be mentored by young adults aged 16-30 who also live with disability* – for more information contact (08) 8373 8313.

#### **4.1.4 Part 6 – Standards for curriculum development, accreditation and delivery**

To ensure courses and programs are “designed in such a way that the student is, or any student with a disability is, able to participate in the learning experience (including the assessment and certification requirements) on the same basis as a student without a disability”<sup>13</sup>, the Disability Standards for Education need to assert that those who design and deliver the courses have a good understanding of their obligations under the UNCRPD to provide courses that “maximize academic and social development, consistent with the goals of inclusion”<sup>4</sup>. Therefore, there needs to be a focus within the standards on promoting “the training of professionals and staff working with persons with disabilities in the rights recognized in the present Convention so as to better provide the assistance and services guaranteed by those rights”<sup>14</sup>.

#### **4.1.5 Part 8 – Standards for harassment and victimisation**

The current standards are helping in highlighting the importance of education providers eliminating harassment and victimisation through developing and implementing “strategies and programs to prevent harassment or victimisation of a student with a disability, or a student who has an associate with a disability, in relation to the disability”<sup>15</sup>. The standards also suggest measures that education providers may implement. However, by itself, this is not enough to ensure that students living with disability experience education that is free from harassment and victimisation.

The Julia Farr Association believes that the standards need to provide more detail about what education providers are required to do to demonstrate compliance with the standards.

#### **4.1.6 Part 10 – Exceptions (unjustifiable hardship)**

The current standards provide detail on what education providers need to consider in determining what constitutes unjustifiable hardship. The guidance notes for the Disability Standards for Education 2005 also state that if “the provider decides to rely on unjustifiable hardship, it is good practice for the provider to ensure that a notice stating the decision and the reasons for the decision is given to the student, or an associate of the student, as soon as practicable after the decision is made”<sup>16</sup>.

This current practice places too much control of decisions made about unjustifiable hardship with education providers, which can lead to students living with disability not being afforded their right to education<sup>4</sup>. The Julia Farr Association therefore

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<sup>13</sup> Disability Standards for Education 2005, <http://www.comlaw.gov.au/Details/F2005L00767>, p. 17.

<sup>14</sup> United Nations n.d., *Convention on the rights of persons with disabilities and optional protocol*, p. 6, <<http://www.un.org/disabilities/documents/convention/convoptprot-e.pdf>>.

<sup>15</sup> Disability Standards for Education 2005, <http://www.comlaw.gov.au/Details/F2005L00767>, p. 22.

<sup>16</sup> Disability Standards for Education 2005 plus Guidance Notes, [http://www.deewr.gov.au/Schooling/Programs/Documents/Disability\\_Standards\\_Education\\_Guidance\\_Notes\\_pdf.pdf](http://www.deewr.gov.au/Schooling/Programs/Documents/Disability_Standards_Education_Guidance_Notes_pdf.pdf), p. 48.

believes that the introduction of an independent body to support in making these decisions would support inclusive access to education.

This is critical in cases where an education provider uses the term unjustifiable hardship as a means to refuse enrolment of an individual for reasons that do not withstand closer independent scrutiny. An independent body's role would be to support the education provider and person living with disability through this issue and can be used to look at creative ways to support the student in their mainstream education in a way that works for everyone. We provide further comment on this in section 7.3.2.2 of this submission.

***R1 Use the United Nations Convention on the Rights of Persons with Disabilities as the context for the Disability Standards for Education.***

The Julia Farr Association recommends that the United Nations Convention on the Rights of Persons with Disabilities be used as the context for the Disability Standards for Education to reinforce the importance of ensuring education providers promote and protect the fundamental rights of students living with disability.

## **5.0 CONSULTATION ABOUT THE DISABILITY STANDARDS FOR EDUCATION 2005**

The Julia Farr Association created an on-line survey which included the questions posed for users of education and training in the review of the Disability Standards for Education 2005 discussion paper<sup>1</sup>.

The survey was widely distributed nationally throughout the disability community from February to mid April 2011. A total of 133 people responded to the survey.

### **5.1 Education background of survey respondents**

Out of the 133 people who responded to the survey:

- 4.5% were students or prospective students;
- 63.9% were carers or family members of students living with disability;
- 3.8% were advocates;
- 12% were from a peak/community organisations;
- 15.8% stated other (this included social workers, health professionals, and those involved in providing education such as teachers).

The Julia Farr Association also asked survey respondents to highlight the types of education they, or someone they knew living with disability, attended. In total:

- 44% attended either preschool, kindergarten or primary school;
- 21.2% attended secondary school;

- 7.6% attended higher education;
- 3% attended adult and community education;
- 8.3% stated that this question was not applicable or did not respond;
- 15.9% stated other (this included respondents who knew of students attending all levels of education).

These findings demonstrate the diversity of educational experiences and backgrounds of survey respondents. Their comments, concerns and suggestions about the Disability Standards for Education 2005 have helped to inform our submission.

## **5.2 Knowledge about the Disability Standards for Education 2005**

We asked survey respondents whether they knew about the Disability Standards for Education 2005. 60% of respondents stated that they did not know about the standards.

We also provided information to survey respondents about where they could access the standards to assist in responding to the review questions.

Those who knew about the Disability Standards for Education stated they had accessed information from a range of sources including:

- Their employer/work;
- The internet, eg DEEWR website, Julia Farr Association link;
- Friends;
- Training undertaken at school;
- Study in the human services field;
- A special school when they made enquiries about enrolment;
- Disability service providers;
- Advocacy agencies/self-advocacy;
- Carer/support networks;
- Education department.

## **6.0 SURVEY FINDINGS**

Below is a summary of the range of responses to the questions raised as part of the online survey.

- 76% of people experienced difficulty enrolling or participating in education activities on the same basis as other people. The barriers included:
  - Lack of reasonable adjustment;
  - Inadequate support;
  - Lack of understanding and acceptance;
  - Lack of funding.

- 68% of people were aware of the rights of people living with disability to enrol, access support and participate in education and training. However, only 45% were aware that these rights were protected under the Disability Standards for Education 2005.
- 43% of people felt the Disability Standards for Education 2005 were easy to understand and 48% felt that the terms used in the standards were clear. However, people did state that the use of technologies such as plain English would make it easier to understand. Others also commented on the need to provide greater information about what constitutes reasonable adjustment.
- 48% of people stated that they did not think the Disability Standards for Education 2005 raised awareness and increased understanding about the rights of people living with disability and the issues people experienced accessing and participating in education and training. One survey respondent said that 'If the standards are known about, they are often not acted upon and access to education is often still difficult'.
- 61% of people stated that there were issues that required more information and clarification to raise awareness of the issues affecting people living with disability in relation to education and training. Some of these issues included:
  - Students living with an Autism Spectrum Disorder and the need for additional supports responsive to their diverse needs;
  - The need for disability awareness training of educators;
  - The need to increase awareness about the rights of students living with disability;
  - The importance of assessing individual support needs and avoiding generalisation.

A more detailed report on the survey findings is provided in Appendix A.

## 7.0 DISCUSSION

The findings of the survey provide a good overview of the concerns and views of students living with disability, families, and other key stakeholders about the Disability Standards for Education 2005 and how these standards impact on, and relate to, their educational experiences and opportunities.

The Julia Farr Association recommends that the Australian Government consider the concerns, views and suggestions highlighted by survey respondents as part of its review of the Disability Standards for Education 2005, to ensure education providers provide equal access and opportunity for students living with disability.

**R2** Consider and respond to the concerns, views and suggestions highlighted by students living with disability, families, and other key stakeholders resulting from the survey including the need to:

- Raise awareness about students living with an Autism Spectrum disorder and the additional supports they may require;

- Raise awareness about the rights of students living with disability;
- Assess the support needs of students living with disability on an individual basis.

The Julia Farr Association would like to provide further comment on:

- Increasing the clarity of the Disability Standards for Education;
- Enhancing awareness and recognition about the Disability Standards for Education;
- Increasing compliance with the Disability Standards for Education.

### **7.1 Increasing clarity**

The Disability Standards for Education 2005 “clarify the obligations of education and training providers, ensuring that students with disabilities are able to access and participate in the educational setting without experiencing discrimination”<sup>17</sup>. The focus is on ensuring consistency is achieved across jurisdictions and education providers.

However, survey respondents highlighted that certain aspects of the Disability Standards for Education 2005 lacked clarity, creating confusion and difficulty interpreting the standards. Suggestions for improvement included:

- Using terminology that is easy to read and understand such as plain English;
- Providing more information about what constitutes reasonable adjustment.

#### **R3 Use terminology that is easy to read and understand.**

The Julia Farr Association acknowledges that guidance notes have been created “to provide additional explanatory material, including background information and comment, to assist the reader in interpreting and complying with the Standards”<sup>18</sup>. However, we believe that there needs to be greater focus on using terminology that is easy to read and understand to ensure that students living with disability have a clearer understanding of their rights, and families and education providers have a clearer understanding of their obligations under the Disability Standards for Education.

We recommend that information about the Disability Standards for Education is provided in a wider range of alternative formats to better respond to the diverse needs of people living with disability. Suggestions include the provision of information in plain English and the use of pictorial symbols.

<sup>17</sup> Australian Institute of Health and Welfare 2009, *Australia’s welfare 2009*, Australia’s welfare series no. 9, Cat. No. AUS 117, AIHW, Canberra, p. 172.

<sup>18</sup> Disability Standards for Education 2005 plus Guidance Notes, [http://www.deewr.gov.au/Schooling/Programs/Documents/Disability\\_Standards\\_Education\\_Guidance\\_Notes\\_pdf.pdf](http://www.deewr.gov.au/Schooling/Programs/Documents/Disability_Standards_Education_Guidance_Notes_pdf.pdf), p. 41.

**R4 Provide more information about what constitutes reasonable adjustment.**

The Julia Farr Association recommends that more detail about what constitutes reasonable adjustment be included in the standards. This can include providing a range of examples of actions education providers can take to support students living with disability to access courses and programs.

## **7.2 Enhancing awareness and recognition**

Only 60% of survey respondents were aware of the Disability Standards for Education. This highlights the urgent need to raise awareness about the standards and their importance in ensuring people living with disability have equal access to educational experiences and opportunities.

As the Disability Standards for Education provide the framework for ensuring that people living with disability have equal access to education on the same basis as other people, the Julia Farr Association believes there needs to be increased awareness about the standards and the rights of students living with disability, as a first step in ensuring their potency.

**R6 Provide training to students living with disability, families, education providers and other key stakeholders to raise awareness about the Disability Standards for Education.**

The Julia Farr Association recommends that students living with disability, families, education providers and other key stakeholders be provided with disability awareness training which includes a focus on:

- Implementation and compliance with the standards;
- What constitutes discrimination;
- The rights of students living with disability, including the right to have choice, control, equal access, dignity and respect (as reinforced in the principles of the UNCRPD);
- Supporting students living with disability to access education that meet their needs and goals, including addressing the challenges students may experience in doing so.

Importantly, the training will be most effective if it is designed and delivered in collaboration with people living with disability.

## 7.3 Increasing compliance

### 7.3.1 Introduction of key performance indicators

The Disability Standards for Education 2005 include suggested measures education providers may undertake to demonstrate compliance with the standards. However, the standards acknowledge that “the measures may not cover the needs of all students with disabilities, or all educational levels and contexts”<sup>19</sup>.

In comparison, Disability Employment Services who also support people living with disability who have diverse needs and backgrounds, are required to meet specific key performance indicators under the Disability Services Standards (FaCSIA) 2007. These standards provide detail on what Disability Employment Services are required to do to support people to gain open employment. Examples of these key performance indicators include:

- KPI 2.2 – Each individual’s employment goals are used as a basis for service provision, with the service provider undertaking a process of planning, implementation, review and adjustments to facilitate the achievement of these goals;
- KPI 7.1 – The service provider encourages the raising of complaints by service recipients regarding any areas of dissatisfaction with the service provider and the service.
- KPI 11.3 – The service provider ensures the provision of appropriate and relevant training and skills development for each staff member;
- KPI 12.2 – The service provider upholds the legal and human rights of its service recipients<sup>20</sup>.

Whilst the Julia Farr Association acknowledges that the current suggested measures in the Disability Standards for Education include similar actions to the examples highlighted above, the Disability Standards for Education 2005 guidance notes state that “Providers are not obliged to comply with the measures”<sup>21</sup>.

The Julia Farr Association therefore recommends that the Disability Standards for Education convert the current suggested measures into more definitive and accountable key performance indicators. We believe this will provide greater clarity about what education providers need to do to meet the standards, and provide equitable access for students living with disability.

### **R7 Convert current suggested measures of compliance to more definitive and accountable key performance indicators to ensure compliance of education providers.**

<sup>19</sup> Disability Standards for Education 2005, <http://www.comlaw.gov.au/Details/F2005L00767>, p. 5.

<sup>20</sup> Disability Services Standards (FaCSIA) 2007, <http://www.comlaw.gov.au/Details/F2007L01969>

<sup>21</sup> Disability Standards for Education 2005 plus Guidance Notes, [http://www.deewr.gov.au/Schooling/Programs/Documents/Disability\\_Standards\\_Education\\_Guidance\\_Notes\\_pdf.pdf](http://www.deewr.gov.au/Schooling/Programs/Documents/Disability_Standards_Education_Guidance_Notes_pdf.pdf), p. 49.

## **7.3.2 Introduction of an independent body to assess compliance with the standards and oversee determination of reasonable adjustments and unjustifiable hardship**

### **7.3.2.1 Independent audits to assess compliance**

Disability Employment Services are also assessed against the Disability Services Standards through audits “conducted by independent third party certification bodies”<sup>22</sup>.

The Julia Farr Association believes that the introduction of independent audits to assess the extent to which education providers adhere to the Disability Standards for Education would also increase compliance and enhance opportunities for people living with disability to access educational experiences on the same basis as their non-disabled peers.

### **7.3.2.2 Independent oversight of determination of reasonable adjustments and unjustifiable hardship**

Under the Disability Standards for Education, education providers are given the responsibility to decide “whether to make a particular reasonable adjustment”<sup>23</sup> after consulting with the student, or an associate of the student, and taking into account whether compliance will impose unjustifiable hardship on the institution. Education providers also typically decide what constitutes unjustifiable hardship. However, as stated by one survey respondent, this can result in ‘considerable variation in perception depending upon individual educator’s understanding, beliefs and knowledge’.

As previously stated, the provision of more information about what constitutes reasonable adjustment will provide greater guidance for education providers. However, we believe that the process for determining reasonable adjustments and unjustifiable hardship also needs to be strengthened to ensure decisions made are responsive to the needs of students living with disability. The creation of an independent body to oversee the process of determining reasonable adjustments and unjustifiable hardship will ensure transparency in the decisions made.

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<sup>22</sup> FaHCSIA 2010, ‘Section 1: Overview of the quality strategy’,

[http://www.facs.gov.au/sa/disability/pubs/employers/Documents/quality\\_strategy\\_toolkit/section1/default.htm](http://www.facs.gov.au/sa/disability/pubs/employers/Documents/quality_strategy_toolkit/section1/default.htm), viewed 4 April 2011, p. 1

<sup>23</sup> Disability Standards for Education 2005, <http://www.comlaw.gov.au/Details/F2005L00767>, p. 12.

**R5 Introduce an independent body (with membership including people living with disability) to:**

- Undertake audits of education providers to assess compliance with the Disability Standards for Education;
- Oversee decisions made about reasonable adjustments and unjustifiable hardship.

The Julia Farr Association believes that introducing key performance indicators and an independent review body to oversee compliance with the Disability Standards for Education will also assist in addressing issues relating to equal access to education and training at a systemic level. Another advantage is that this approach is likely to reduce the need for students living with disability to lodge a complaint through the Australian Human Rights Commission and the courts<sup>24</sup>.

## **8.0 CONCLUSION**

The Julia Farr Association asserts that attending to the issues highlighted in this submission by students living with disability, families and other key stakeholders, and the resulting recommendations, will support education providers to meet their obligations under the UNCRPD to provide students living with disability with educational opportunities and experiences that are responsive to their individual needs and aspirations and on the same basis as their non-disabled peers.

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<sup>24</sup> Disability Standards for Education 2005 plus Guidance Notes,  
[http://www.deewr.gov.au/Schooling/Programs/Documents/Disability\\_Standards\\_Education\\_Guidance\\_Notes\\_pdf.pdf](http://www.deewr.gov.au/Schooling/Programs/Documents/Disability_Standards_Education_Guidance_Notes_pdf.pdf)

## 9.0 APPENDIX A - SURVEY FINDINGS DETAILED REPORT

### 9.1 Rights under the Standards

*Are you aware of your rights to enrol, access support and participate in education and training?*

- YES – 68%
- NO – 32%

*Are you aware that these rights are protected under the Disability Standards for Education 2005?*

- YES - 45.5%
- NO - 37.2%
- NOT SURE - 17.3%

### 9.2 Providing clarity

*Are the Disability Standards for Education 2005 easy to understand?*

- YES – 43.7%
- NO – 18.4%
- NOT SURE – 37.9%

*If the Disability Standards for Education 2005 are not easy to understand, what parts require clarification?*

- 'Reasonable adjustments seem to be the source of confusion for providers'.
- 'There is no element of compliance to ensure that it is enforced'.
- 'Why should parents have to understand the Standards when parents of non-disabled kids don't have to think about it. If the standards were being followed then understanding would not be required'.
- Need to use terminology that is easy to understand such as plain English / there is too much 'legal speak'.

*Is the format of the Disability Standards for Education 2005 useful for understanding rights and requirements under each of the Standards?*

- YES – 32.5%
- NO – 12%
- NOT SURE – 55.5%

*If yes, can you provide examples?*

- 'The definition of labels for people and providers is helpful'.
- 'If anything it is too simplistic for what is often a very complex range of issues'.
- Reasonable adjustment section.
- Easy to read and clearly laid out sections.

*If no, can you provide examples?*

- 'The part about causing hardship. What may cause hardship to one person may be nothing to the next'.
- 'Implementation is really not included'.
- 'What are my child's rights in plain English to be allocated extra resources? I couldn't find it'.

*Are the terms used in the Disability Standards for Education 2005 clear to you?*

- YES – 48.3%
- NO – 14.9%
- NOT SURE – 36.8%
  
- 'Very broad and generalised, disability is a very unique thing to each individual. I see no customisation of the terms here to suit specific needs'.
- 'I am curious that the term disability is not defined'.

*Are there any parts of the Disability Standards for Education 2005 that need additional explanation or details of where to find additional information?*

- YES – 19.8%
- NO – 19.8%
- NOT SURE – 60.4%

*If yes, can you provide examples?*

- 'A plain English guide as well as a clear definition of reasonable adjustment'.
- 'Reasonable adjustment could have some more scenarios or further examples'.
- 'I think a concise easy to read summary of rights and responsibilities including references to the act'.
- Information on 'where a person can go to get help when issues of discrimination arise'.

### **9.3 Awareness and recognition**

*Do you think the Disability Standards for Education 2005 have raised awareness and increased understanding of the issues affecting people living with disability and their rights to access and participate in education and training?*

- YES – 19.2%
- NO – 48.7%
- NOT SURE – 32.1%

*If yes, can you provide examples?*

- 'Has with providers on an ad hoc basis but not overall impacted'.
- 'Yes, definitely – they have made a significant improvement for people with disability in accessing and participating in further education'.
- 'It made me realise my family had a right to be part of the community and that we hadn't committed a crime because our child had a disability'.

- 'I think there is more awareness but that doesn't necessarily lead to more compliance – institutions just get cleverer at wriggling out of them'.
- 'The Standards can be used to assist people with disability in having some equity'.

*If no, can you provide examples?*

- 'Not many people are even aware of it'.
- 'If the standards are known about, they are often not acted upon and access to education is often still difficult. Also, people's attitudes are often a barrier to participating in educational opportunities for those with disabilities'.
- 'They can only raise awareness and increase understanding if people are aware of their existence. I also don't believe that a document outlining people's rights can provide raised awareness and understanding of the issues faced by people with a disability, however it can enlighten in relation to understanding individual's rights'.

*Are there issues that require more information or clarification so that there is a greater awareness of the issues affecting people living with disability in relation to education and training?*

- YES – 61.3%
- NO – 12%
- NOT SURE – 26.7%

*If yes, can you provide examples?*

- Increased awareness about:
  - Children living with an Autism Spectrum Disorder - Survey respondents highlighted that children diagnosed with an Autism Spectrum Disorder, who are not diagnosed as having an intellectual disability, require additional supports to ensure they experience responsive educational opportunities. Currently if they are not assessed as also having an intellectual disability, supports are limited. In a number of cases families have had no option but to home school their child as the current system has not adequately responded to their particular needs;
  - The need for teachers and aides to receive training, eg provide disability studies in mainstream education to raise awareness and acceptance;
  - The responsibility of educators to 'follow the guidelines just as any business has legal obligations to the community such as OH&S...' and 'ensure that the students achieve as much as they are capable of (as is the case with 'non-disabled' students)';
  - The importance of assessing the needs of students living with disability 'on an individual basis and not generalised';
  - The rights of students living with disability.

- More information and clarification about:
  - Reasonable adjustments;
  - Where people can go to get assistance.

#### **9.4 Access to education and training opportunities**

*Have you or a person you know living with disability, experienced difficulties enrolling in an education institution or participating in educational activities on the same basis as people without disability?*

- YES – 76.4%
- NO – 17.9%
- NOT SURE – 5.7%

*If yes, why do you think this occurred?*

- 'A special school told me they would use the funds they got for having my children there for how they saw fit, not to have them together in a class room sharing teacher aide... They seem to be a law unto their own'.
- Inadequate support.
- Lack of understanding about needs of student.
- Lack of funding.
- Lack of tolerance and acceptance.
- Support needs deemed too high by school.
- Lack of training of staff.
- Inability to access physical and social environments.
- Insufficient focus on engaging student in productive learning activities.
- Having to undertake additional paperwork and assessments.
- Going on a waiting list / Limited special class places available in mainstream schools.
- Lack of reasonable adjustment.
- Lack of communication.
- Lack of understanding of the standards and resources to make requirements a reality.

*Please describe any instances where the Disability Standards for Education 2005 have enabled someone living with disability to access education and training opportunities.*

- 'Has assisted with tertiary support and assistance'.
- 'The processes implemented under the Disability Standards for Education 2005 have certainly made access and equity improvements – this needs to stay'.
- 'TAFE provide excellent services and support for people with disabilities'.

*Are the provisions for consultation and reasonable adjustment in the Disability Standards for Education 2005 clear and adequate?*

- YES – 39.8%
- NO – 25.2%
- NOT SURE – 35%

Survey respondents were also asked to comment on the provisions for consultation and reasonable adjustment. Below is a summary.

- 'The provisions are adequate and clear, but they allow considerable variation in perception depending upon individual educator's understanding, beliefs and knowledge... There appears to be little or no understanding of functional impact on day to day activities (e.g. the individual's experiences), only clinical assessments of their situation'.
- 'Reasonable adjustment – no. An adjustment is a measure or action taken to assist a student living with disability to participate in education and training on the same basis as other students... This is an unfair comparison as some people with a disability have behavioural issues and given their comprehension and more importantly expressive abilities are not the same as "other students" therefore this is an unfair bias which can be used to exclude that particular student as I have witnessed happen'.
- 'Reasonable adjustment required legal challenge to ascertain what is reasonable. DECS think part time or no attendance is reasonable or putting a kid in an environment they cannot function in is OK'.

## **9.5 Compatibility with current education system**

*Are there any current education or training issues that are not covered by the Disability Standards for Education 2005 but should be?*

- YES – 17.1%
- NO – 7.1%
- NOT SURE – 75.8%

*If yes, can you provide examples?*

- 'When sporting events are held by Education Providers they must allow people with Disability the opportunity to participate as an Athlete with a Disability and be measured by their own classification standard'.
- 'Training in severe and challenging behaviour management'.
- The rights of students, parents and carers to access sufficient assistance.
- Mental health.
- How to implement the standards.

*Are you aware of any education providers that are not covered by the list in part 1.5 of the Disability Standards for Education 2005? (The list of education providers was included in the survey.)*

- YES – 7.6%
- NO – 92.4%

*If yes, can you provide examples?*

- Registered training organisations
- Independent schools