

MINISTER FOR EDUCATION, SCIENCE AND TRAINING
THE HON DR BRENDAN NELSON MP

Mr Warwick Wilkie
Principal
William Carey Christian School
Bumbera Street
PRESTONS NSW 2170

11 NOV 2003

Dear Mr Wilkie

Thank you for your letter of 8 September 2003 concerning the Disability Standards for Education under the *Disability Discrimination Act, 1992* (DDA) and the resourcing of non-government schools to support students with disabilities.

I appreciate your commitment to providing high quality support to students with disabilities enrolled in your school, including through special courses and individualised programmes to ensure that they have access to the same educational opportunities that are available to other students.

In your letter, you expressed concerns that the DDA Standards for Education will impose unacceptable additional burden on schools such as the William Carey Christian School in terms of the obligations on the School to enrol students with disabilities, the application of unjustifiable hardship and the need for additional resources for the School to fulfil its obligations.

I can assure you that the Standards do not impose any more obligations on education providers to enrol students with disabilities than is currently the case under the DDA which has been in place since 1992. As you would be aware, the DDA seeks to ensure, as far as practicable, that persons with disabilities have the same rights as the rest of the community. Under the DDA it is unlawful for an education provider to discriminate against persons with disabilities who wish to enrol in an educational institution except where it can be established that the adjustments required by these persons would impose unjustifiable hardship on the educational authority.

The DDA Standards for Education do not increase these obligations on education providers. Rather, they aim to make it easier for providers to interpret and comply with the DDA by clarifying and making more explicit the existing provisions of the Act. When legislated, the Standards will require the providers to ensure that "the prospective student is able to seek admission to, or apply for enrolment in, the institution on the same basis as a prospective student without a disability, and without experiencing discrimination". A provider can achieve this by making decisions about enrolment on the basis that reasonable adjustments will be made where necessary so that the student with a disability is treated on the same basis as a student without the disability.

An adjustment is reasonable if it balances the interests of all parties affected, including the student with the disability, the education provider, staff and other students. In making a reasonable adjustment, the provider is entitled to ensure that the integrity of the course or programme and assessment requirements and processes are maintained. In applying the unjustifiable hardship provision under the DDA, the Standards offer a defence to the provider such that an adjustment is not mandatory if it will cause unjustifiable hardship. In applying this provision, the provider is entitled to consider all costs and benefits, both direct and indirect, that are likely to result for the provider, the student, associates of the student, and any other person in the learning or wider community.

Significantly, the Standards extend the unjustifiable hardship provision beyond the point of enrolment (as currently under the DDA) to cover other areas of education - participation; curriculum development, delivery and accreditation; student support services; and the elimination of harassment and victimisation. This is considered advantageous to education providers.

With regard to your concerns about the cost of implementing the Standards, in April this year the Australian Government commissioned the Allen Consulting Group to undertake a transparent and independent cost-benefit analysis of implementing the Standards. The analysis, based on the qualitative and quantitative information supplied by education providers and other stakeholders, identified that the benefits arising from the Standards exceeded their costs. It determined professional development to support the introduction of the Standards as the only legitimate cost attributable to the Standards over and above the costs of compliance with the DDA. Accordingly, I have offered to make a contribution to the development of innovative, online professional development material that could be used across all sectors.

On the broader question of resourcing of non-government schools to support students with disabilities, the Australian Government recognises that this is a matter of considerable importance to the non-government school community.

Australian Government funding for schools is provided primarily through General Recurrent Grants. Additional targeted assistance for educationally disadvantaged school students, including students with disabilities, is provided under the *Strategic Assistance for Improving Student Outcomes (SAISO) Programme*. While the Commonwealth provides the majority of government funding to non-government schools, this funding is complementary to funding non-government schools receive from other sources and is not intended to meet the full cost of providing services for any student, including students with disabilities.

You may be aware that, in 2002, the Senate Employment, Workplace Relations and Education References Committee conducted an Inquiry into the education of students with disabilities across all sectors of education. The Senate Committee's report can be accessed on the internet at http://www.aph.gov.au/senate/committee/eet_ctte/ed_students_withdisabilities/report/report.pdf The report identified a range of issues and challenges associated with educating school students with disabilities and made a number of recommendations relating to these matters. It also included an analysis of the financial resources available to the non-government school sectors (Appendix 6 of the report).

The Government's response to the Senate Committee's report, which was tabled in July 2003, is available at http://www.dest.gov.au/edu/gen_ed_pubs.htm. The response included material prepared by the Department of Education, Science and Training (DEST) which identified a number of shortcomings with the methodology set out in Appendix 6. The funding analysis undertaken by DEST suggested that, in 2004, the independent school sector will receive total recurrent funding from all sources on par with the government school sector.

The response also indicated that the non-government school sectors will have an opportunity to raise issues relating to funding for students with disabilities in the context of planning for the 2005-2008 quadrennium.

Yours sincerely

BRENDAN NELSON