

Mr Paul Belin
Assistant Commissioner.
Inquiry into the Disability Discrimination Act

Dear Sir.

Please find attached my submission to the Productivity Commissions inquiry into the Disability Discrimination Act

To the Commissioners

Students with disabilities attending non-government schools do not receive any protection under the DDA in the area of funding equality. Students with disabilities attending government schools receive funding through the Program for Students with Disabilities and Impairments, State funds provided to government schools. Assessed level of disability (1) \$3,800.00 to level(6) \$29,000.00. This is provided in addition to recurrent funding. Commonwealth funds for independent schools; Assessed level of disability, Level (1)\$1,000. to level(3) \$3,000. There is a significant difference in the level in funding provided for students with disabilities in independent schools.

Correspondence I received from the Department of Education, Training and Youth Affairs (Canberra) in March 2000 again highlighted this significant funding level difference provided for students with disabilities in independent schools and I quote;

Under the Special Learning Needs Programme the Commonwealth provides funding to the States and Territories for a range of targeted programs, including funding to improve the educational participation of and outcomes for children and students with disabilities. In 2000, approximately \$13.1 million will be provided for government schools and \$5 million for independent schools in Victoria for this purpose. This funding will assist approximately 6,000 students with disabilities attending government schools,(\$22,000 per student.) and 1,250 students with disabilities attending independent schools.(\$4,000 per student)

In the report of the Senate Employment Workplace Relations and Educations References Committee Inquiry into the Education of Students with Disabilities the committee rejected the proposal by the National Council of Independent Schools of Australia that students with disabilities should receive the same level of government support, irrespective of the school sector in which they are enrolled. In doing so, the committee has rejected the principle that disabilities funding should be provided to students who need it, rather than decided upon simply by which school sector in which the student is enrolled. Page two of the report comments that "the number and content of submissions from the non-government school sector suggested a coordinated approach to secure increased Commonwealth funding over and above the current appropriation. Instead of highlighting the evident need, the committee viewed the sectors contribution to the inquiry with cynicism.

Indirect discrimination is when someone imposes a condition, which on the face of it is harmless, but has the effect of adversely affecting a particular person or group which is not reasonable. It is my belief that the Commonwealth in its Special Learning Needs Programme funding and the Senate Committees failure to recommend that students with disabilities should receive the same level of government support irrespective of the school sector in which they are enrolled, are guilty of indirect discrimination.

Under the current Commonwealth and State Government funding systems for students with disabilities attending Independent schools, the educational outcomes for these children is very bleak, should this biased system be allowed to continue. Under the DDA discrimination is unlawful in certain areas of all types of education, except in the area of equality of services and funding for students with disabilities attending independent schools. The effectiveness of the DDA in this area of education is non-existent.

If the recommendation of the Senate Committee **that** MCEETYA develop a policy on inclusive education that recognises the importance of having a range of schooling options for students with disabilities, then I cannot see any advantages in developing disability standards in education, providing that the standards that exist for disabled students in government schools are maintained at their present high level. The disadvantages of developing disability standards in education would appear in a test of time. Lessons learnt from the process to date of developing the education disability standards. Time, seven years to develop a second draft is ridiculous, even to government standards.

The current disability funding provisions for independent schools are totally inadequate and substantially favour students attending government schools

Among the most vulnerable individuals in our society, children with disabilities should have the opportunity to select the school where they believe they can reach their individual potential. While I agree that they are not denied the "right of choice" under the present funding arrangements (Commonwealth and State.) they are certainly severely penalized. Current funding arrangements dictate these children lose almost all of their state government funding when they leave the government sector and enter the independent sector.

The following example, while it may not be relevant to this inquiry, will give you an insight into the impact the government funding arrangements have on the lives of these children and their families. My 13 year old granddaughter (Emma Richardson.) was born with Cerebral Palsy (Spastic Quadriplegia) profound disabilities, affecting her speech, mobility and self care. On the commencement of her primary education, Emma entered the government school system (mainstream) and was assessed by the DE&T as needing a fulltime integration aide speech and physiotherapy, she received funding (level 5 \$23,950) through the Program for Students with Disabilities and Impairments, which paid for a fulltime integration aide and support services. In 2002 Emma was ready to commence her secondary education, her choice of school was an independent school Flinders Community Christian College. Emma had many reasons for this choice, because of her Christian upbringing, her main reason was that she wished to study 'Theology'.

Emma's disabilities are physical not intellectual, she is a very intelligent child and passed her entrance exams and was accepted by the college. Emma and the college were aware of the financial difficulties that they faced and agreed to a six months trial, at the time of writing Emma is still attending the college despite the loss of most of her funding

The allocation of funds for students with disabilities is a complex arrangement. Despite the push for integration, different funding arrangements apply to students with disabilities attending independent special schools as compared to students with disabilities enrolled in mainstream independent schools. In Victoria students with disabilities attending primary special independent schools receive the highest available level of recurrent funding from the Commonwealth and State governments. Primary students receive \$740. secondary \$1,153. Additionally, the Commonwealth provides up to \$4,000 in targeted funding for students attending special schools.

Students with disabilities attending mainstream independent schools receive the same level of recurrent funding available to all students attending that school. In addition to recurrent funding Commonwealth and State supplementary funding is available to both groups.

Commonwealth Strategic assistance per capita (students with disabilities) Schools receive \$589 of additional funding for each student.

Special education compensation funding: This a transition measure due to terminate at the end of 2004. Not all

students are eligible for this assistance and the level varies widely with a maximum of \$2,600. Targeted funding under the Strategic Assistance for Improving Students Outcomes Program Due to the increase in the number of students with disabilities the maximum allocation is \$3,000 per student per annum The Victorian Government's State Support Services Program provided just \$800. to those students with disabilities in independent schools in 2002. This program is to assist with support services and is grossly inadequate. The per hour funding amount for services support has declined from \$40p/hour in 1995 to \$18 p/hour in 2002. The current for purchasing support services is between \$70 and \$90 P/hour. Current funding arrangements result in a vast differences between resources provided to government and independent schools. State schools can receive between \$3,928 and \$29,979 for disabilities assessed between levels 1 and 6 in addition to recurrent funding. Independent schools assess level of disability is between 1 and 3 with a maximum of \$3,000 provided by the Commonwealth, State provides \$800 for support services.

It is important to note the significant difference in the level of government funding (Commonwealth and State) provided for students with disabilities in independent schools as in government schools. Because of this funding difference Emma now only has an aide 15 hours a week. This is made possible by the school paying for a certain amount of hours for her aide, and her mother acting as her aide two mornings a week, at a considerable loss of wages to her. In the hours that Emma has no aide(3 p/day) to get the materials ready she requires as the class changes subjects, she falls behind with her work. This means that she has to take home and complete up to 40% of her work. This not only has an impact on the familys social activities, but it curtails any after school activities that she did participate in: riding for the disabled lessons, swimming, riding her bike and going for walks in her Hart Walker, which she can no longer use at school, because of the short periods she has an aide. All of these activities were of a great benefit to Emma's physical condition, helped improve her motoring skills and gave her some independence, she is now being denied these small pleasures.

We have a 13 year old girl who has no mobility and had to rely on students and teachers to move her around, until they raised funds and bought her an electric wheelchair. She has speech and physical problems and does not get sufficient funding for the support services she needs and she has the big problem of self care. She needs help with her toileting, to overcome this problem during school hours, when she has no aide, she only goes to the toilet at home before and after school, where she has her mother and father to assist her. To avoid having to go to the toilet during school hours she drinks very little fluids during those hours. Her doctor is worried about this practice, he believes, that allowed to continue it will cause health problems. So far there has been no problems but she is now at the age where she is reaching puberty and this could create a big problem, or if she has a stomach upset during the times she does not have her aide with her.

Premier of Victoria, the Education Minister, Education Dept, Disability Services Dept of Human Services and the Disability Advisory Council of Victoria are all aware of Emma's situation,(and have been for a considerable time) but refuse to give her any assistance. This is despite an election promise in 1999 to "ensure that student with disabilities reach their potential in non-government schools.) and again in 2002 to raise the standard of every non-government school and operate on the principle that that every child, regardless of school, must receive the best possible education. Also in their State Disability Plan they committed to promote inclusive education, and in the Disability Services Act 1991 one of the principles of that Act; states that persons with disabilities receiving services have the same right as other members of Australian society to receive those services in a manner which results in the least restriction of their rights and opportunities.

The Federal Minister for Education, Science and Training is also aware of Emma's situation, and claims in his correspondence, that he is fully committed to investigating the area of Commonwealth support for students with disabilities, but unfortunately, he regrets he is not in a position to assist directly in Emma's case. Also the Commonwealth Government supports the rights of children with disabilities to the same educational opportunities as other children and is committed to providing ongoing funding for this purpose. By rejecting the proposal by the National Council of Independent Schools of Australia for equality of funding for students with

disabilities in independent schools, the Senate Committee Inquiry does not support this policy.

I apologise for such a long drawn-out submission when perhaps the issues I make comment on are not entirely relevant to the inquiry's terms of reference. But I do believe that; for the DDA to climate as far as possible, discrimination in the area of education, and to promote recognition and acceptance within the community of the principle that people with disabilities have the same fundamental rights as the rest of the community. It must give children with disabilities, and their families, who have made a choice to further their education in an education system which best meets their needs, protection from an unjust Commonwealth and State government funding system. You cannot expect the community to accept that people with disabilities have the same fundamental rights as themselves, if governments do not recognise these rights in all areas.

Finally, thank you for the privilege to make this submission.

Yours Respectfully

Tom Byrnes