

2020 REVIEW OF THE DISABILITY STANDARDS FOR EDUCATION 2005

Formal Submission for review of established process in NSW Public Schools

Details of Submission:

I work as a School Counsellor in NSW Public Schools. I am very familiar with the Disability Standards in ensuring that all children with a recognised disability are supported to independently access the curriculum on the same basis as a student without a disability. However, my submission today is to raise concerns about the outlined process of recognition of a disability in Public Schools, in particular, Mild Intellectual Disability, and the variation in 'local processes' that I have encountered.

The Department of Education has an internal Disability Criteria Code Sheet (2003) that is used as a reference for conferring a Disability Confirmation Sheet (DCS) within DoE public schools. The DCS is an internal document that serves as a summary of all of the student's recognised disabilities. The DCS is required as an attachment for Integration Funding Support applications, and access to other services such as Special Class Placements, or applications for placements in Special Schools, also known as SSPs (Schools for Specific Purposes). Mild Intellectual Disability is not a funded disability within NSW Public Schools on its own, and is managed through the provision of an Independent Education Plan, or any other name for a document that summarises the reasonable adjustments that are in place in the classroom to provide the student with '...opportunities to realise their individual potential through their participation in education and training on the same basis as students without disabilities'. The DoE defines Mild Intellectual Disability based on the following criteria:

To meet criteria for mild intellectual disability, students must have a full-scale IQ score of approximately two to three standard deviations below the mean on an approved individual test of intelligence (IQ <70). There must be information on the assessment of adaptive skills and school performance (where applicable) consistent with, or below this range of scores. (DoE Disability Code Sheet 2003)

Recently, I have encountered a 'mixed' understanding by my School Counselling and SPE peers of the Disability Standards, and how they are applied in terms of recognition of Mild Intellectual Disability in Public Schools. There appears to be a widely held belief in the School Counselling Service that if a child meets DoE criteria for Mild Intellectual Disability, and they are not seeking a Special Class Placement, then there is no need, or requirement, to generate the DCS, or to recognise the disability and accommodate the student's individual needs within the school through the authoring of an IEP. I am of the belief that this is a breach of the Disability Standards, since if the disability is not recognised with the confirmation of a DCS, then the child is not flagged for a mandated Independent Education Plan, and that no adjustments are documented to support the child in the classroom. Under section 123 of the Disabilities Discrimination Act, failure to recognise the disability through raising the DCS, and failure to document the adjustments required to support the student in a mainstream setting through an IEP could be seen as 'unlawful conduct' as there is no demonstration of adherence to the Disability Standards.

The failure to recognise a Mild Intellectual Disability through the raising of a DCS also has implications for the Nationally Consistent Collection of Data.

For the NCCD, school count the number of students receiving adjustments because of

disability and make decisions about the level of adjustment being provided for each student with disability.

Schools provide NCCD information to education authorities and Australian Government Department of Education. This includes, for each student with disability, the year of schooling, the category of disability and the level of adjustment they receive.

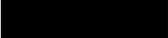
For the NCCD, school teams must have evidence to show that they have followed the Standards processes, including consultation with the student and/or their parent, guardian, or carer. The NCCD reinforces schools existing obligations under the Standards. (Source www.nccd.edu.au)

The School Counsellor time allocated to individual schools is also calculated based on a range of factors, including the prevalence of recognised disabilities within the school, and forms part of the 'composition' of the school. Failure to recognise Mild Intellectual Disability has implications for the reduced allocation of School Counsellor time. Global funding for the school can also be influenced by 'school composition', and the prevalence of disability.

The generation of the DCS in the school serves other functions. It flags the student for immediate consideration of drafting the IEP to document the reasonable adjustment required in class for the child to succeed. It also flags the student for a possible follow up assessment in the future, especially during transition to High School where the student may be eligible for a Special Class Placement. Therefore, failure to generate the DCS, and failure to re-assess at transition points prevents the student with an assessed Mild Intellectual Disability from accessing an appropriate Educational setting. By not recognising this disability appropriately, the student with possible significant learning issues is placed in a mainstream Year 7 classroom at transition, and when these classes are streamed, the student is often in the 'bottom classes', with no additional support provided.

I believe that a discussion needs to be had between DSE representatives and School Counselling Services at NSW State Office, so that information can be universally provided and transmitted to School Counsellors and their SPE (School Psychologist Education) supervisors to clarify process around generation of DCSs for students assessed with a Mild Intellectual Disability. The 'local processes' that are in place across the State where the Mild Intellectual Disability (IN-1) coded DCS is not raised, and the IEP is not mandated and drafted, represents a potential serious breach of the Disability Standards, and leaves the DoE, and individual schools, exposed to possible legal issues due to its failure to recognise, and accommodate a significant disability.

I agree that 'reliance on complaints mechanisms to drive compliance with the Standards is ineffective and could be complemented with more proactive mechanisms'. Thank you for considering this submission as a more 'proactive mechanism' to resolve this misunderstanding within the DoE School Counselling service around this common practice.


School Counsellor
(Registered Teacher and Psychologist)

Dated: 05/08/2020

