Evaluation Case Study

Lawyers supporting training in the *Disability Standards for Education 2005*

MSSD Output 6: Training for Disability Standards for Education
MSSD Output 7: Leadership to strengthen teachers’ capability

Association of Independent Schools in New South Wales
Lawyers supporting training in the Disability Standards for Education 2005

Abstract

The Association of Independent Schools in New South Wales (AISNSW) has drawn on the services of two lawyers with knowledge and experience related to the Disability Discrimination Act 1992 (DDA) and the Disability Standards for Education 2005 (DSE) to deliver professional learning for school leaders. This has emerged as an important component of its suite of More Support for Students with Disabilities (MSSD) activities. Participants in the professional learning forum received a detailed overview of the DDA/DSE referenced against case law and were provided with opportunities to reflect on what was learned in order to plan for adjustments in their own setting.

Key elements and actions

The MSSD Disability Discrimination Forum is part of a suite of professional learning and opportunities offered by AISNSW to support independent schools to establish and implement their own school level projects to improve engagement and learning for students with disabilities who have high needs. “..... the students who need the most support in the sector are those with severe disabilities and it is those school leaders and teachers who face the most challenges in catering for these students and incorporating them successfully into school life.”

Schools with higher numbers of students with complex needs were targeted for participation in the AISNSW programme of MSSD activity. Principals and school registrars received an invitation to the professional learning session with the following information:

As part of the terms and conditions of participation in the More Support for Students with Disabilities Initiative, the AISNSW invites you as Principal, and your school Registrar or Business Manager to attend a Professional Learning forum to enhance your knowledge on the Disability Discrimination Act (DDA) and the Disability Standards for Education 2005 (DSE). The MSSD Disability Discrimination Forum for Principals and Registrars will provide you with updated and relevant information to guide your schools practices in enrolling a student with a disability, and what is legislated in terms of meeting their on-going educational needs.

You will gain in-depth knowledge on the following topics:

- an overview of the DDA and DSE
- review outcomes of DSE
- the process of enrolling students with disabilities in your school
- other relevant laws/Acts eg: Family Law, Work Health and Safety, Privacy
- case studies and implications of each element of the Standards
- guidelines to ensure that your Policies and Procedures are compliant and guide decision making
- what can go wrong, and what paperwork you may be asked to provide.
The course will be presented by two lawyers who have had extensive experience in representing and providing advice to independent schools.

Please note that attendance by the school Principal and Registrar or Business Manager is mandatory as a condition of the funding.

The forum was held in late November 2013 with 46 principals and school registrars in attendance.

The Professional Learning Programme

An understanding of the Disability Standards for Education for 2005 (DSE) is central to the strategies that the AISNSW had employed in the implementation of the MSSD initiative. By targeting school leaders in a whole school mentoring process, AISNSW believes that the school leaders will develop the skills necessary to continue to refine and implement processes within their schools that identify and address the needs of students with disabilities.

The programme was structured to feature three specific sessions:

- introductory session delivered by the two lawyers covering
  - the legal framework including the DDA and DSE and drawing on case law to examine disability discrimination, direct and indirect discrimination and examples of reasonable adjustment
  - an overview of the recent review of the DSE and recommendations of change, including the interaction between disability discrimination and other obligations arising from the Privacy Act, Work Health and Safety regulations and the accepted principle of ‘duty of care’.

- presentation and discussion related to
  - key areas of risk, such as enrolment and management of disciplinary issues
  - complaints processes, including what happens when a complaint is made, how to prepare a response, the conciliation process and record keeping requirements
  - a case study example of the experience of a student with disabilities where complexities became increasingly apparent as the student progressed through the school
  - the approaches of two schools to ensure full compliance with DSE.

- workshop sessions to enable participants to explore and interpret the meaning of the legislation plan for complying with the DDA/DSE in their own setting.

As aids to facilitate discussion and learning in the latter sessions, AISNSW consultants provided a number of resources that were largely sourced from the Australian Human Rights Commission website. The following are two examples of the materials:

Responding to bullying

A mother complained that her son who has an autistic disorder had been discriminated against when he was suspended from school. She said her son was constantly bullied at school and reacted to bullying by being aggressive, and that the school had taken action only against her son and not the bullies. After a conciliation conference and

further negotiations, an agreement was reached for the boy to return to school with the support of an intervention plan, additional teacher aide time and an individual education programme, as well as for review of the school’s suspension policy and strategies for dealing with bullying.

Accommodating ADHD in education

A mother complained that she and her son were being discriminated against by his school because of his attention deficit/hyperactivity disorder (ADHD), including information about his disability not being passed on where required and teachers being unprepared to speak to her. The school denied any discrimination.

Where issues arose in workshop discussions, AISNSW consultants were at hand to support and guide participants. Invariably, this guidance included reference to Section 6.3 of the DSE which provides advice in relation to ‘measures for compliance with the standards.’ That is, measures that the education provider may implement to enable the student to participate in the learning experiences (including the assessment and certification requirements) of the course or programme, and any relevant supplementary course or programme, on the same basis as a student without a disability.

The workshop sessions concluded with participants working through a personal exercise to analyse and evaluate the extent to which the DSE are fully embedded within their own school via a matrix to consider the needs of a student who has a disability and/or high support needs, as illustrated below.

Your school: how are you going?

Identify a learner at your school who has a disability and/or high needs or a learning difficulty. Use the chart below to record what you are already doing to ensure that the student can access, participate and achieve in all aspects of school life. Then think about areas that you may need to consider further.

<table>
<thead>
<tr>
<th>Area of the Standards</th>
<th>What is being done?</th>
<th>What else could be done?</th>
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</thead>
<tbody>
<tr>
<td>Enrolment</td>
<td></td>
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<tr>
<td>Participation</td>
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<tr>
<td>Curriculum development, accreditation and delivery</td>
<td></td>
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<tr>
<td>Student support services</td>
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<td></td>
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<tr>
<td>Elimination of harassment and victimisation</td>
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Outputs and outcomes

The structure of the day clearly worked well from the perspective of the participants. It progressed through a logical sequence from information to the examples and experience conveyed by peers, through to the implications of the material for each leader’s setting.

In this context, the lawyers’ overview of the legislation and DSE benefited from examples drawn from case law. This approach was particularly useful in giving clarity to the potential complexities.
associated with competing interests, for example, in balancing the interests of an individual student in contrast to a school’s responsibility for the health and safety of its staff and its duty of care in meeting the educational needs of other students.

The presentations by fellow school leaders were equally constructive in illustrating the potential complexities of meeting obligations under the DDA, with one principal outlining how the same process led to three distinct sets of outcomes for three individual students with disability. This was combined with emphasising the critical importance of:

- openness and transparency in policy and procedures – “.... maintaining a mindset of inclusivity from the outset”
- the importance of documentation (record of meetings, conversations and responses to incidents should they occur)
- seeking guidance and support from experts within and beyond the school whenever required.

The outputs of the day went beyond the immediate participants being informed of their obligations under the DDA. Indeed, the analysis/evaluation sheets that were completed by participants featured planned actions at across a number of fronts, including:

- revision of enrolment procedures and associated policy documentation
- staff briefings
- reviews of teaching and learning strategies
- revision of camps and excursions policies, discipline procedures and supervision arrangements.

Based on feedback received from participants after the forum, this initial planning has translated for some school leaders into tangible action on return to school, in terms of changes to policy and procedures. For others the professional learning has led to an enhanced consciousness of the need to ensure the DSE are considered as part of school planning decisions and day-to-day curriculum delivery throughout the school.

**Lessons learned**

**Key observations**

The strategy of making use of external legal experts gave authority to the original briefing. Not only did this enable school leaders to reflect on the implications of the DDA and DSE for their own setting, but the reference to case law gave context and tangible evidence to the implication of the legislation to which school leaders could clearly relate.

However, on its own, this strategy may have had limited impact beyond conveying information and raising awareness. The sessions after the initial presentations by the lawyers addressed this by building on the newly acquired knowledge and understandings to give school leaders:

- insights into the potential complexities that may arise when obligations are unfulfilled
- ideas and strategies to implement within their own setting to ensure that schools are fully compliant with legislation
- confidence to act on issues that may well have been simmering or been brushed aside due to their complexity or a lack of foresight into their implications.
The combined impact of these elements gave impetus to action at the school level. As one principal remarked:

_We have been muddling around in this space for some time. I now have a clear sense of what needs to be done .... and the first thing is to make this the number one item on the agenda for our next executive meeting._

**Sustainability**

As with any initiative, the extent to which it is sustainable is somewhat open-ended.

In the short term, AISNSW is investing some of its MSSD resources in engaging lawyers to make an important scene setting contribution to a professional development programme. For the medium term, it has employed consultants on a two year contract to guide and support school leaders in the implementation of what has been learned in their own setting. Sustained capacity building in the targeted schools should increase the school’s ability to meet the educational needs of students with disability.

Through this targeted investment in resources AISNSW believes that capacity to plan for students with disability will be achieved and potentially lessen the intensity of support required in future. Moreover, where members of the school executive or school staff move to other schools, AISNSW believes that their knowledge and capacity to implement the strategies will be a resource for their new school.

The availability of developed and refined professional learning activities will equip the existing team to deliver professional learning activities, including courses, to other schools over time and to support the leadership teams in the participating schools. Leadership teams will be assisted and encouraged to develop their own professional learning communities within their schools and to establish processes and supports that can be implemented beyond the life of the project.

**Potential for adoption in other contexts**

Three features of the AISNSW programme would remain critical to the effectiveness of a similar approach being adopted in other settings.

- Engaging external experts with relevant knowledge of the law and the settings in which it may be applied. In this instance, AISNSW contracted lawyers with a comprehensive knowledge of DDA/DSE and case law relevant to the legislation and standards, combined with knowledge and experience associated with the day-to-day operation of schools.

- Embedding the programme with a structured approach to building the capabilities and school leaders and the capacity of schools to better meet the needs of students with disability. In this regard, the AISNSW programme was clearly not an isolated, one-off event, but rather, it was one part of an integrated package of professional development and support.

- Ensuring that skilled consultants are at hand to provide guidance and support to schools in developing appropriate policies and enacting adjustments critical to school operations.

The model established by AISNSW could easily be adopted by other authorities to provide school leaders with relevant information about the DDA/DSE and the opportunity to reflect and act on the implications of the legislation in their own setting.
Background

MSSD Outputs

MSSD Output 6: Providing training for all school staff to improve understanding of their obligations under the Disability Standards for Education 2005 and how to meet those obligations.

MSSD Output 7: Supporting school principals and/or school leadership teams to strengthen teachers’ ability to assist students with disability.

Case study methodology

The case study methodology was undertaken in two parts. A member of the evaluation team attended a full day professional learning session for independent school principals and other school leaders. This was followed by analysis of some of the documented outputs of the day and a small number of stakeholder consultations to determine the extent of the impact of the professional learning on day-to-day planning, processes and operation of individual schools.

Description of activity

AISNSW recognises the importance of school leaders having detailed knowledge of their legal obligations under the Disability Standards for Education 2005 and the way in which this knowledge needs to translate into systematic strategies and actions at each school to ensure the all students are able to access and engage with curriculum, irrespective of their abilities and/or disabilities. For this reason one of the two major streams of MSSD activity undertaken by the AISNSW has targeted school executives to enable them to:

- lead staff to include students with disabilities using practices consistent with the Disability Standards for Education 2005
- lead the collaborative planning process for students with a disability including seeking student, parent and relevant specialist advice
- support staff in developing skills in adjusting lessons for students with a disability
- plan and implement professional learning for staff to build their skills in educating students with a disability, including sustained activity beyond the life of the MSSD initiative
- provide staff with ongoing access to support, expert advice, resources, and equipment as identified by the collaborative planning process.

To achieve these outcomes, AISNSW has ensured that school leaders have access to a range of mentors and relevant specialists. Their roles include consulting with individual schools to support the school executive, developing and implementing tailored professional learning programs in each school in conjunction with targeted professional development programmes conducted outside the school. The MSSD Disability Discrimination Forum, a workshop focusing on the Disability Standards for Education (2005), is an example of one of these external programmes.