

5 November, 2009

tertiary.strategy@minedu.govt.nz

To Whom It May Concern:

RE: Inclusive Education Action Group's (IEAG) Submission to the Tertiary Education Strategy 2010 to 2015

Please find attached a revised version of the *Tertiary Education Strategy 2010 to 2015 (TES)*. This document, along with this letter, is IEAG's (Inclusive Education Action Group) submission for your consideration in regards to this Strategy. Modifications in 'tracked changes' have made to ensure that the Strategy is consistent with the

- New Zealand Disability Strategy;
- United Nations; Convention on the Rights of Persons with Disabilities;
- New Zealand Human Rights Act (1993); and
- New Zealand Bill of Rights Act (1990)

These national Acts, strategies, and international conventions form a critical foundation that uphold the rights of disabled people to be treated equally and with dignity. All people irrespective of their disability, ethnicity, gender, sexuality, or socio-economic status have the right to equal access to education. It is therefore vital that the *Tertiary Education Strategy (TES)* is aligned with these important documents.

The New Zealand Disability Strategy

The aim of the Disability Strategy is to build an inclusive society and eliminate the barriers that disabled people encounter as they try to reach their potential and fully participate in the community. There are fifteen objectives within the

Strategy and each year, each Government Department is required to report on how it has progressed the *Strategy*. Its fifteen objectives include:

1. Encourage and educate for a non-disabling society
2. Ensure rights for disabled people
3. Provide the best education for disabled people
4. Provide opportunities in employment and economic development for disabled people
5. Foster leadership by disabled people
8. Support quality living in the community for disabled people
9. Support lifestyle choices, recreation and culture for disabled people
10. Collect and use relevant information about disabled people and disability issues
11. Promote participation of disabled Māori
12. Promote participation of disabled Pasifika Peoples
13. Enable disabled children and youth to lead full and active lives
14. Promote participation of disabled women in order to improve their quality of life
15. Value families, whānau and people providing ongoing support (Minister of Disability Issues, 2001, p. 2)

United Nations; Convention on the Rights of Persons with Disabilities

The *United Nations; Convention on the Rights of Persons with Disabilities* promotes and protects the rights, fundamental freedom, and dignity of disabled people. Overall, the *Convention* promotes the development of inclusive societies, in which tertiary education is an important part. New Zealand is a signatory to this convention. The suggested UN Protocol for State Parties that have signed the convention in regard to education is outlined below and stems from Article 24 of the convention. It makes the case for an inclusive education for children and youth with a disability at all levels. It states (emphasis added):

Article 24: Education

1. States Parties recognize the right of persons with disabilities to education. With a view to realizing this right without discrimination and on the basis of equal opportunity, States Parties **shall ensure an inclusive education system at all levels and lifelong learning** directed to:

(a) The full development of human potential and sense of dignity and self-worth, and the strengthening of respect for human rights, fundamental freedoms and human diversity;

(b) The development by persons with disabilities of their personality, talents and creativity, as well as their mental and physical abilities, to their fullest potential;

(c) Enabling persons with disabilities to participate effectively in a

free society.

For these rights to be realized, States have a number of obligations. Disabled people should not be excluded from the general education system, and should be able to access an inclusive, quality, and responsive tertiary education and training system.

New Zealand Human Rights Act (1993)

The *New Zealand Human Rights Act (1993)* contains a set of rights that protect people with discrimination in accordance with UN conventions and covenants. Part II, clause 21 deals with discrimination in a general way, and includes the prohibition of discrimination on the grounds of disability. Indirect discrimination is also unlawful under Part II, clause 65 makes indirect discrimination unlawful. Part II, clause 73 provides for the lawful establishment of special measures to address disadvantage where persons or groups may be reasonably assisted to achieve parity with other New Zealanders. This would include the support needed to ensure access to tertiary education for disabled people.

New Zealand Bill of Rights Act (1990)

The *1990 Bill of Rights* contains a set of basic rights for all New Zealanders that promotes, affirms, and human rights and freedoms. The aim is to “improve New Zealand’s system of government and provide a safeguard for those fundamental rights and freedoms vital to the survival of New Zealand’s democratic and multicultural society” (Ministry of Justice, 2004). All legislation must conform to the *Bill of Rights*. The section most relevant to this submission is Section 19 below:

Section 19

Freedom from discrimination: (1) Everyone has the right to freedom from discrimination on the grounds of discrimination in the Human Rights Act 1993. (2) Measures taken in good faith for the purpose of assisting or advancing persons or groups of persons disadvantaged because of discrimination that is unlawful by virtue of Part II of the Human Rights Act 1993 do not constitute discrimination. (Human Rights Commission, 2008)

IEAG’s Submission

Given the above, this submission emphasizes that disabled people and disability issues need to be included within the *Tertiary Education Strategy*. It is our view that the draft document as written does not yet do this. The amendments to the attached document are designed to take into consideration the rights of disabled people and the support that disabled people may need to access, and be included in, the tertiary education sector.

Secondly, we note that there are some inconsistencies in the *Draft Tertiary Education Strategy*. While the document talks about improving participation in

tertiary education, there is a narrow focus on full time study, high achievers, and providers that demonstrate improved performance. Such an emphasis may discriminate against disabled people, and we have thus made detailed comments and suggested appropriate changes to the *Strategy* in the attached 'tracked changed' document so this does not occur.

Thirdly, the *Strategy* also talks about strengthening links between funding and provider performance. We believe that 'performance indicators' should include measures that take into account the providers' attempts to include, support, and teach a diverse range of students (e.g. disabled people, Pasifika students, older students, women, part time students). Again, specific comments and suggestions are within the tracked changed document that is attached.

Yours faithfully,

Dr. Jude MacArthur, Co-Convenor

Ian Armstrong, Co-Convenor

Dr. Nancy Higgins, Secretary

Email for correspondence: n.higgins@clear.net.nz

IEAG
PO Box 172
Kaukapakapa 0843