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DISABILITY STANDARDS FOR EDUCATION 2005

BACKGROUND

The Disability Standards for Education (the Standards) came into effect on 18 August 2005. The Standards seek to ensure that students with disability can access and participate in education on the same basis as other students. On the same basis means that a student with disability must have opportunities and choices which are comparable with those offered to students without disability. This applies to:

- admission or enrolment in an institution
- participation in courses or programmes
- use of facilities and services

The Standards clarify the obligations of education and training providers, and the rights of people with disability, under the Disability Discrimination Act 1992 (DDA). The Standards are subordinate legislation made under the DDA. [Guidance Notes to the Standards](#) provide additional explanatory material, including background information and comments intended to help people interpret and comply with the Standards.

What the Standards do

A primary objective of the Standards is to make rights and responsibilities in education and training easier to understand. The Standards cover enrolment, participation, curriculum development, accreditation and delivery, student support services and elimination of harassment and victimisation.

Each part of the Standards sets out the:

- rights of students with disability in relation to education and training to help people understand what is fair and reasonable under the Standards
- the legal obligations or responsibilities of education providers
- measures that may be implemented to comply with the requirements of the Standards.

All education providers are bound by the Standards: preschools and kindergartens, public and private schools, public and private education and training places and tertiary institutions including TAFEs and universities.

Under the Standards, education providers have three main types of obligations. They must:

- consult
- make reasonable adjustments
- eliminate harassment and victimisation.

Consultation

Education providers must consult in order to understand the impact of a student's disability and to determine whether any adjustments or changes are needed to assist the student. Although the Standards are not prescriptive about the process, consultation could include:

- talking with the student and their family members or carers, to get ideas about the type of assistance that is needed
- discussing ways to overcome the barriers and the adjustments that could be made by the education provider and whether these adjustments are reasonable
- providing any relevant medical and therapist reports that help to explain the disability and the needs and supports that can help
- providing written advice about the issues discussed during the consultation and the decisions made; including specifying a date for notifying the student about what adjustments will or will not be made
- meeting regularly to make sure all is going well and change supports if needed and keeping records of these meetings.

The obligation to consult continues for the whole time that the student is involved with the education provider.

Reasonable adjustments

The Standards set out a process whereby education providers can meet the obligation to make reasonable adjustments where necessary.

An adjustment is a measure or action taken to assist a student with disability to participate in education and training on the same basis as other students.

An adjustment is reasonable if it achieves this purpose while taking into account the student's learning needs and balancing the interests of all parties affected, including those of the student with disability, the education provider, staff and other students.

The process of consultation outlined is an integral part of ensuring that providers are meeting their obligations in relation to reasonable adjustments.

Education providers are required only to make reasonable adjustments. Schools can draw upon a broad range of resources to provide reasonable adjustments – including resources, materials and programmes that may be in the form of targeted funding through a disability programme, ongoing school funding or a redirection of general school resources to address the needs of students with disability. Other options include support through student services and allied health staff, specialist and targeted curriculum material and use of expertise within the school or network.

The Standards do not require changes to be made if this would impose unjustifiable hardship on the education provider. All relevant circumstances are to be taken into account when assessing unjustifiable hardship including:

- benefit or detriment to any persons concerned
- disability of the person
- financial circumstances of the education provider.

Exceptions from the legal obligations in the Standards are set out in Part 10. In cases where a provider decides that an exception applies, it is the responsibility of the provider to demonstrate how the exception operates. However, the exception of unjustifiable hardship does not apply to harassment or victimisation.

Eliminating discrimination

The Standards require that education providers develop and implement strategies to prevent harassment and victimisation of people with disability. Harassment in this case means an action taken in relation to people with disability that is reasonably likely to humiliate, offend, intimidate or distress the person. Harassment and victimisation of students with disability is unlawful and education providers must take all reasonable steps to prevent this from happening.

An education provider must take reasonable steps to ensure that staff and students are informed about:

- the obligation not to harass or victimise students with disability, or their associates
- the appropriate action to be taken if harassment or victimisation occurs
- complaint mechanisms available to a student who is harassed or victimised in relation to a disability of the student or of an associate of the student.

An education provider that has no strategy or programme to prevent or remove harassment and victimisation, simply because it was not aware that these were occurring, is not likely to be able to establish a defence under the Standards or the DDA. Unjustifiable hardship is not available as a defence where a provider fails to comply with the Standards for harassment and victimisation.

Measures for compliance

The Standards outline measures for compliance to provide examples of what can be done to meet the requirements of each part of the Standards. The measures are examples only and may not cover the needs of all students with disabilities, or all educational contexts. In these circumstances compliance with the Standards may require additional or alternative actions.

What happens if there is a breach?

Under section 32 of the DDA it is unlawful for a person to contravene a Disability Standard. An aggrieved person or someone on their behalf can make a complaint to the Australian Human Rights Commission (AHRC) about non-compliance with the DDA. This includes complaints about non-compliance with a Disability Standard. If conciliation by the AHRC is unsuccessful, an aggrieved person may commence legal proceedings in the Federal Court or Federal Magistrates Court.

In addition, most states and territories have equal opportunity legislation. People who wish to lodge a complaint about discrimination can choose to complain under the Commonwealth's *Australian Human Rights Commission Act 1986* or the relevant state/territory legislation.

More information

The [Department of Education website](#) includes copies of [the Standards and Guidance Notes \(www.education.gov.au/disability-standards-education\)](#). Information on rights and requirements under the Standards is provided in the following table

AT ST MARY'S WE ADHERE TO THE FOLLOWING

Table 1: Rights and Requirements under the Standards

Enrolment: Rights	Enrolment: Requirements
Right to seek admission and enrol on the same basis as prospective students without disability including the right to reasonable adjustments.	<ul style="list-style-type: none"> • Take reasonable steps to ensure that the enrolment process is accessible. • Consider students with disability in the same way as students without disability when deciding to offer a place. • Consult with the prospective students or their associates about the effect of the disability on their ability to seek enrolment; and any reasonable adjustments necessary.
Participation: Rights	Participation: Requirements
Right to access courses and programmes; use services and facilities; and have reasonable adjustments, to ensure students with disability are able to participate in education and training on the same basis as students without disability.	<ul style="list-style-type: none"> • Take reasonable steps to ensure participation. • Consult with the student or their associate about the effect of the disability on their ability to participate. • Make a reasonable adjustment if necessary. • Repeating this process over time as necessary.
Curriculum development, accreditation and delivery: Rights	Curriculum development, accreditation and delivery: Requirements
Right to participate in courses and relevant supplementary programmes that are designed to develop their skills, knowledge and understanding, on the same basis as students without disability and to have reasonable adjustments to ensure they are able to participate in education and training.	<ul style="list-style-type: none"> • Enable students with disability to participate in learning experiences (including assessment and certification). • Consult with the student or their associate. • Take into consideration whether the disability affects the student's ability to participate in the learning experiences.
Student support services: Rights	Student support services: Requirements
Right to access student support services provided by education institutions, on the same basis as students without disability. Students with disability have the right to specialised services needed to participate in the educational activities they are enrolled in.	<ul style="list-style-type: none"> • Ensure that students with disability are able to use general support services. • Ensure that students have access to specialised support services. • Facilitate the provision of specialised support services.
Harassment and victimisation: Rights	Harassment and victimisation: Requirements
Right to education and training in an environment that is free from discrimination caused by harassment and victimisation on the basis of their disability.	<ul style="list-style-type: none"> • Implement strategies to prevent harassment or victimisation. • Take reasonable steps to ensure that staff and students are informed about their obligation not to harass or victimise students with disability. • Take appropriate action if harassment or victimisation occurs. • Ensure complaint mechanisms are available to students.

PARENTAL ENGAGEMENT:

Improving outcomes for students with disability

A partnership approach to parental engagement

A partnership approach to parental engagement aims to give students with disability the best chance to achieve their potential. Family-school partnerships are collaborative relationships and activities involving school staff, parents, carers or guardians, and other members of the child's family.

Effective partnerships are based on mutual commitment, trust and respect, and shared responsibility for the education of the child.

Research indicates that best practice in working with students with disability can include a multi-disciplinary team of family, school and health professionals. This could include speech pathologists, occupational therapists, paediatricians, and psychologists. All members of a child's team bring a unique set of knowledge, skills and experience that help make learning successful for the student. All members of the team have a role in making a partnership work.

Disability Standards for Education 2005

In Australia, all education providers including schools are required to comply with the [Disability Standards for Education 2005](http://www.education.gov.au/disability-standards-education) (www.education.gov.au/disability-standards-education). These Standards explicitly state that all educational institutions must consult with the student or an "associate" of the student regarding how a disability affects the student's ability to access education or training. An associate could include a child's parent, carer, or advocate. Schools are also required to consult when determining what adjustments will be made to support a child's access to school.

Why should families and schools work in partnership?

Research has found that the benefits of effective family-school partnerships include a range of positive outcomes:

- student learning increases and educational outcomes are improved
- students' behaviour management problems are reduced
- there are fewer student suspensions from school; increased attendance, retention and graduation rates
- parents and carers contribute more time and expertise to the school
- parents and carers are more supportive of school programmes
- teachers have a comprehensive knowledge of students
- teacher morale increases
- teachers are more appreciative of parents and carers and their skills
- there are flow-on positive relationships between the school and the broader school community.

When schools and families work together they can identify and prioritise goals and solve problems collaboratively. When decisions are made collaboratively, everyone involved is more inclined to commit to student goals and objectives.

How can schools engage effectively with parents and carers?

Parents and carers bring important information, knowledge and experience to the educational partnership. They can share their children's interests, likes and dislikes, and preferred learning styles. These can be incorporated in learner profiles and individual education plans or IEPs. Interests can be powerful motivators to improve students' participation in less preferred activities.

Joint problem solving—for example in the context of a planning meeting—can provide an opportunity for school staff, parents and carers and students to brainstorm ideas and learn from each other. Parents and carers of children with disability have often experienced successful interventions and strategies in the past and can help schools to replicate supports.

When working with students with disability and their families, schools should focus on students' strengths as well as identifying the challenges requiring further support. A strengths-based approach can use a student's strengths to develop areas of need, and values the student's interests by incorporating these into the academic programme

Key elements of an effective partnership

There are several important elements to an effective family-school partnership.

- Communication
- Good communication includes:
 - sharing resources
 - being clear
 - being tactful
 - being honest
 - active listening.
- Commitment
- Commitment to making a partnership work involves:
 - being flexible
 - encouraging the child and family
 - being accessible to child and family
 - being sensitive to emotion, including empathy versus sympathy.
- Equality
- Equal family-school relationships include:
 - avoiding use of "clout"—power imbalance
 - being willing to explore options
 - validating others.
- Skills
- Skills that are needed to make partnerships work include:
 - taking action
 - being willing to learn
 - meeting individual needs.
- Trust
- In partnerships based on trust, adults will focus on:
 - being reliable
 - keeping the child safe
 - being discreet.
- Respect

- Respectful relationships involve:
- being non-judgemental
- being courteous
- valuing the child
- avoiding intrusion.

GROWTH model

A problem-solving framework that schools and families can draw on to work together is the GROWTH model. More information on this model is available at the Australian Government's [Positive Partnerships website \(www.positivepartnerships.com.au\)](http://www.positivepartnerships.com.au).

A summary of the model is provided in the following table.

Table 2: the GROWTH problem-solving framework

Letter	Outcome	Issues to consider
G	GOAL	What do you want to work on?
R	REALITY	What is happening now?
O	OPTIONS	What are your options?
W	WILL	What will you do?
T	TACTICS	How will you do this?
H	HABITS	How will you sustain your success?

Key points to remember

- There are several key points to remember when building family-school partnerships: parents and school staff need to recognise and understand the importance of collaborative practice
- parents and school staff both bring important information to the educational partnership
- parents are important contributors to the process of forward planning
- schools can influence the way parents feel about the value of their contributions
- it is important to acknowledge the challenges that both parents and schools face
- for an effective collaborative partnership to develop, both points of view must be acknowledged
- other family members, including siblings, are part of the family-school partnership.

More information

There are many resources and sources of support for schools and families to help them work effectively together. A good starting point is [state or territory government](#), [Catholic](#) and [independent](#) education authorities, which can identify resources that may be available to support schools and parents locally. Websites for local authorities can be accessed through:

www.education.gov.au/school-education

www.ncec.catholic.edu.au

www.isca.edu.au

Information on other useful websites follows.

Australian Government-funded websites

The [Safe Schools Hub website](#) has information on [connecting with your child's school](#) (www.safeschoolshub.edu.au/for-parents/your-part/connecting-with-your-child's-school) and on [children with special needs](#) (www.safeschoolshub.edu.au/for-parents/what-to-do-about-/special-needs).

The [Positive Partnerships website](#) includes information and resources for parents of children with an autism spectrum disorder (www.positivepartnerships.com.au).

The [Raising Children Network website](#) has information for [parents of children with a disability](#) (www.raisingchildren.net.au/children_with_disabilities/children_with_disability.html).

The [Family-School and Community Partnerships Bureau](#) website has information to support parental engagement and community involvement in schools (www.familyschool.org.au).

Sources

Information in this fact sheet was adapted from material developed for the Australian Government Department of Education through the [Positive Partnerships initiative](#), which supports schools and families of children with an autism spectrum disorder (www.positivepartnerships.com.au). Please note that links to online resources are provided for information only and the views expressed in these resources do not necessarily represent the views of the Australian Government Department of Education.

EFFECTIVE CONSULTATION:

Improving outcomes for students with disability

Background

The Disability Standards for Education 2005 require education providers to consult with the student and their associates (usually their parent or carer) before making an adjustment. This means that schools are obliged to consult and students and parents have a right to ask schools to consult with them about education adjustments.

Consultation must be about how the disability affects the student in relation to enrolment, participation, curriculum adjustments and access to support services. In deciding whether to make an adjustment, an education provider must consult the student about whether the adjustment is reasonable, whether it would assist the student to access and participate on the same basis as other students and whether it is the least disruptive and intrusive but beneficial adjustment for the student.

It is important that schools have access to information about the student and their needs in order to make the best decision about the adjustment required.

This fact sheet outlines what an effective consultation process looks like, what issues should be discussed, and provides suggestions about how to resolve difficult issues.

Key principles

Effective consultation is based on the following key principles.

- Student focussed
- A genuine discussion is held about the best interests of the student and what is needed to maximise their educational outcomes. Older students are involved in the process as appropriate.
- Mutual respect
- Different views are heard and acknowledged without interruption, criticism or judgement.
- Accessibility and transparency
- Communication is open and information needed to make an adjustment is shared. Ways to access information are transparent.
- Balancing power
- The respective roles and responsibilities of both parents and teachers in educating the student are acknowledged and respected.
- Fairness
- There is willingness to reach agreement or to find alternative ways to proceed if agreement cannot be reached. Processes for resolving issues are fair and equitable. All views are heard and taken into account in the outcome.
- Accountability
- There are opportunities for ongoing discussion and review. The agreement is recorded in writing.

Getting the most out of consultation

Based on these key principles, in order to get the most out of the consultation process students, parents and school staff should:

- work out what is the purpose of the discussion, in other words what outcome do you want?
- start a discussion early preferably before issues or problems arise
- know their rights and responsibilities
- show mutual respect
- try to stay calm, it may be necessary to bring in an independent person or postpone discussions if those involved are upset
- focus on what is best for the student
- recognise that each person has something to offer
- identify the key issue that needs to be addressed and focus on problem solving this
- where appropriate involve the student in the discussion
- work out who else needs to be involved in the discussion
- bring any relevant information to the discussion as part of the process of reaching agreement
- build in review points to follow up what has been agreed
- agree how ongoing communication will occur
- write down what has been agreed and what each person will do and when.

Figure 1: Quote from parent

“As parents we have expectations and hopes of what our children will achieve. Sometimes our expectations are different to the teacher’s and it is up to the parent to help the teacher in any way they can to show the true potential of their child I have found one way to overcome this potential conflict and to build a shared vision, is to establish good communication links with the school and class teacher”.

Caroline McCallum, primary school teacher and mother of a daughter with Asperger syndrome, quoted in [Positive Partnerships](#) materials.

Key issues to cover

Evidence and information

Learner profiles can assist students, parents and teachers to record and understand the student’s strengths, needs and appropriate learning strategies. Learner profiles can be used as resources for teachers and can be provided when a student changes teachers, classes or schools. This can reduce the need for repetitive explanations of the student’s needs to different people.

Assessments by health professionals are another source of evidence to be used in the adjustment process. Expert advice from health professionals should be based on a functional assessment of the student’s needs. Teachers can use this advice to work out the type of educational support needed.

Resources for adjustments

Access and participation are directly linked to resources in terms of teacher capacity and support services available. An effective consultation process includes transparency about funding decisions and how funds for students with disability are allocated in the school setting.

Some issues are easier to reach agreement about. Agreement about support should be updated on a routine basis and an independent third party should be involved in all consultations to ensure that agreements reached satisfy all parties involved, including students, parents, teachers and principals.

More information

A quick guide to help parents and carers prepare for meetings with schools is attached to this fact sheet.

Australian Government-funded websites

The [Safe Schools Hub website](http://www.safeschoolshub.edu.au/for-parents/your-part/connecting-with-your-child's-school) has information on [connecting with your child's school](http://www.safeschoolshub.edu.au/for-parents/your-part/connecting-with-your-child's-school) (www.safeschoolshub.edu.au/for-parents/your-part/connecting-with-your-child's-school) and on [children with special needs](http://www.safeschoolshub.edu.au/for-parents/what-to-do-about-special-needs) (www.safeschoolshub.edu.au/for-parents/what-to-do-about-special-needs).

The [Positive Partnerships website](http://www.positivepartnerships.com.au) includes information and resources for parents of children with an autism spectrum disorder (www.positivepartnerships.com.au).

The [Raising Children Network website](http://www.raisingchildren.net.au/children_with_disabilities/children_with_disability.html) has information for [parents of children with a disability](http://www.raisingchildren.net.au/children_with_disabilities/children_with_disability.html) (www.raisingchildren.net.au/children_with_disabilities/children_with_disability.html).

The [Family-School and Community Partnerships Bureau](http://www.family-school.org.au) website has information to support parental engagement and community involvement in schools (www.family-school.org.au).

Sources

Information in this fact sheet was adapted from the Ontario Ministry for Education (2007) [Shared Solutions](http://www.edu.gov.on.ca) resource (www.edu.gov.on.ca) and from material developed for the Australian Government Department of Education through the [Positive Partnerships initiative](http://www.positivepartnerships.com.au). Positive Partnerships supports schools and families of children with an autism spectrum disorder (www.positivepartnerships.com.au). Please note that links to online resources are provided for information only and the views expressed in these resources do not necessarily represent the views of the Australian Government Department of Education.

Quick guide to a consultation meeting

Table 3: Quick guide: preparing for a consultation meeting

Questions to answer	Notes
Date of meeting	
Time of meeting	
Where is the meeting being held	
Who is attending the meeting	
What do you want to come out of the meeting with?	
What is the key issue you are trying to address?	
What do you need to tell the people at the meeting?	
What are your rights and responsibilities? (Bring information with you)	
Write down what has been agreed. Ask for a written record of the discussion	
Do you need to meet again and if so when? How will ongoing communication occur?	

Table 4: Tips for reaching agreement

Do	Don't
Look for solutions	Look for someone to blame
Focus on the problem	Focus on the person
Take a collaborative approach	Take an adversarial approach
Use dialogue	Engage in debate
Focus on the student's interest	Focus on a predetermined outcome
Think that everyone can win	Think that someone has to lose
Focus on change	Focus on control

COMPLAINTS PROCESSES:

Addressing disability discrimination

Overview

The Commonwealth's Disability Discrimination Act 1992 (the DDA) makes it against the law to treat a person unfairly because of their disability. People who are relatives, friends and carers of people with a disability are also protected by the DDA.

It is also against the law for a person to contravene a Disability Standard (DDA Section 32). The Disability Standards for Education require that people with disability can access and participate in education on the same basis as people without disability. The Standards also require that education providers make reasonable adjustments to enable participation and that students with disability should not be victimised or harassed.

If you believe you have been unlawfully discriminated against because of a disability you may be able to make a complaint.

Options

There are a number of ways to make a complaint in relation to school education.

1. School or education authority

Education authorities in each state or territory and non-government schools have complaints policies. At an individual school level you can make a complaint to teachers or the principal. If possible it is best to try and resolve the issue early at the local level. If the issue cannot be resolved at the school level you may decide to complain to the relevant education authority. You should either check their website or make a phone call to find out the best process. Attached are links to relevant information for each authority. If you are not satisfied about actions, decisions or conduct of staff of state or territory government authorities such as government departments and statutory bodies, including schools, you can raise this with the Ombudsman in your state or territory.

2. Anti-discrimination boards

Most states and territories have anti-discrimination and/or human rights and equal opportunity legislation. People who wish to lodge a complaint about disability discrimination can choose to complain under the relevant state or territory legislation. Alternatively, complaints can be made under the Commonwealth's DDA to the Australian Human Rights Commission.

3. Australian Human Rights Commission

Federal anti-discrimination law says that people can make complaints to the Commission about disability discrimination. The Australian Human Rights Commission is an independent body that investigates and resolves complaints about unlawful discrimination.

The Commission has a range of information on making a complaint as follows:
complaints under the DDA

- the complaint process
- overview of conciliation
- unlawful discrimination—understanding and preparing for conciliation.

More information is available on the [Complaints section of the Commission's website](http://www.humanrights.gov.au/complaints-information) (<http://www.humanrights.gov.au/complaints-information>).

If you are unsure if you can make a complaint about something, you can contact the Commission's Complaint Information Service by phone on 1300 656 419 or by email to complaintsinfo@humanrights.gov.au

Process

Each of the organisations identified in this fact sheet has its own process for making a complaint. For more information on the process in your state or territory, please visit the relevant website. Website addresses are provided in Table 1.

- Some general tips for preparing for the complaints process include:
- decide which organisation to register a complaint with
- call or email the organisation to see if you are able to make a complaint and to check what you need to do
- write down the details of the complaint, including who was involved what happened and when. Indicate whether you have tried to raise the concern with either the person or the school involved or anyone else

You may also seek assistance or advice from discrimination legal centres which operate in some states and territories

Table 5: State and territory government information on school education and complaints processes

State and territory department website and contact phone number	State and territory education authority: link to information on complaints processes	State based anti-discrimination agency
Australian Capital Territory Department of Education and Training Phone: +61 2 6207 5111	http://www.det.act.gov.au/childrens_policy_and_regulation/frequently_asked_questions	ACT Human Rights Commission http://www.hrc.act.gov.au/
New South Wales Department of Education and Training Phone: +61 2 9561 8000	http://www.dec.nsw.gov.au/about-us/how-we-operate/how-we-handle-complaints	Anti-Discrimination Board of NSW http://www.antidiscrimination.lawlink.nsw.gov.au/
Northern Territory Department of Education and Training Phone: +61 8 8999 5659	http://www.education.nt.gov.au/about-us/policies/documents/general/complaintsf	Northern Territory Anti-Discrimination Commission http://www.adc.nt.gov.au/
Queensland Department of Education, Training and Employment Phone: +61 7 3237 0111	http://education.qld.gov.au/parents/making-a-complaint.html	Anti-Discrimination Commission Queensland http://www.adcq.qld.gov.au/
South Australia Department for Education and Child Development Phone: +61 8 8226 1000	http://www.decd.sa.gov.au/docs/documents/1/ParentComplaintsPolicy.pdf	Equal Opportunity Commission SA http://www.eoc.sa.gov.au/
Tasmania Department of Education Phone: 1800 816 057	https://www.education.tas.gov.au/documentcentre/Documents/Grievances-Guidelines-for-Parents-and-the-Community.pdf	Office of Anti-Discrimination Commissioner Tasmania http://www.antidiscrimination.tas.gov.au/
Victoria Department of Education and Early Childhood Development Phone: +61 3 9637 2000	http://www.education.vic.gov.au/about/contact/Pages/complainschool.aspx	Victorian Human Rights Commission http://www.humanrightscommission.vic.gov.au/
Western Australia Department of Education and Training Phone: +61 8 9264 5555	http://det.wa.edu.au/standardsandintegrity/detcms/navigation/complaints-management/	Equal Opportunity Commission WA http://www.eoc.wa.gov.au/