

Children and students with disability policy

This is a mandated policy under the operational policy framework. Any edits to this policy must follow the process outlined on the [creating, updating and deleting operational policies](#) page.

Overview

This policy aims to:

- ensure that department preschools, children’s centres, schools, programs and services are inclusive of children and students with disability
- ensure that all children and students with disability who are attending a program or service are provided with a personalised learning and support that meets the functional needs of the child or student and the requirements of the Early Years Learning Framework, the Australian Curriculum, and South Australian Certificate of Education (SACE)
- clearly set out the legal responsibilities of the department’s personnel in providing inclusive learning programs and services to children and students with disability.

Scope

This policy applies to all staff at preschools, children’s centres, schools, settings and programs operated by the department and all children, students, parents and carers who are or may be captured by the provisions of the Disability Discrimination Act 1992 and the Disability Standards for Education 2005.



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Detail

Department preschools, children's centres, schools, programs and services have responsibility for maximising the learning outcomes and wellbeing of all children and students, and for providing access to a high-quality education that is free from harassment, victimisation and discrimination. Children and students should feel that they are included in an inclusive environment of high expectation where they are both able and enabled to learn.

Australia has legislation that outlines the responsibilities of government and individuals referred to as the *Disability Discrimination Act 1992*. This Act relates to the need to treat all individuals in a fair and equitable manner in all aspects of their life and education. To the department this means that it is unlawful to discriminate against children and students due to disability.

The legal responsibilities of educators in South Australia who work with children and students with disability are outlined in the *Disability Standards for Education 2005* (the standards).

To the department, inclusive education means that all students will benefit academically and socially when provided with high quality teaching. Students experience inclusive education when they can access and fully participate in learning alongside their similar-aged peers, supported by reasonable adjustments and strategies, tailored to meet their individual needs. Inclusion is embedded in all aspects of preschool, children's centre or school life and is supported by culture, policies and everyday practices.

In seeking to provide for all children and students and in complying with the standards, the department acknowledges that amongst other matters, the degree to which a disability impacts a child or student's learning is determined by their functional needs, the learning environment and the child or student's ability to interact with that environment. Children and students with disability have a diverse range of strengths and needs that may change over time and from situation to situation.

The department is committed to inclusion, taking reasonable steps to ensure that children and students with disability can attend their local preschool, children's centre or school, on the same basis as a child or student without disability, without experiencing discrimination.

Disability standards for education

Reasonable adjustments for children and students with disability

The standards require that jurisdictions make reasonable adjustments to enable children and students with disability to participate in an inclusive education program or service on the same basis as children and students without disability.

These adjustments include, but are not limited to, taking measures that enable children and students with disability, in the least restrictive manner to:

- enrol at their local preschool, children's centre or school
- attend regularly, as their same-age peers
- participate in a selected course or program, including excursions and camps

- make use of facilities offered to other children and students through modification of facilities and equipment, where necessary
- access additional support or funding where required.
- access targeted programs and relevant settings including specialised education options when eligible and suitable.
- access and participate in all aspects of the Early Years Learning Framework or the Australian Curriculum, SACE or modified SACE
- access student support services.

As part of an inclusive education system the department has a range of specialised education options:

- preschools for deaf and hard of hearing children
- inclusive preschool programs
- the Briars Preschool
- speech and language programs
- special classes
- disability units
- special schools
- schools with specific disability foci, including:
 - Kilparrin Teaching and Assessment School and services
 - South Australian School and Service for Vision Impaired
- centres of deaf education for school-aged children
- speech and language classes
- link programs
- conductive education programs.

Each specialised education option has a placement procedure. Refer to the specialised education options placement procedure.

Standards for participation

This standard establishes the need for access to be granted through the provision of reasonable adjustments and in effect provides the same access for children and students without disability. These support options will allow children and students with disability to achieve through quality care and teaching.

In determining these standards for participation, preschools, children's centres and schools must consult, not only with the child or student and their parent or carer, but also with those support organisations identified by the child or student's support services team or which are identified by the child or student and their parent or carer. Consultations should be transparent and should include discussion regarding the functional

needs of the child and the curriculum, instructional and environmental adjustments that may need to be put in place to enable the child or student to access and participate in their education on the same basis as their peers. From this consultation will come the required personalised learning and support which is documented in a personalised learning plan. The personalised learning plan sets out their functional needs, their educational aspirations, aims and objectives for that individual child or student to participate in their personalised education program. Additional resourcing may be required for some children and students to enable substantial and extensive adjustments to be made to facilitate the implementation of their personalised learning plan.

Curriculum and teaching approaches will, where necessary, be adjusted or modified to ensure access and participation, and such adjustments that have facilitated access need to be considered, assessed or reviewed as the child or student's needs change over time.

Standards for curriculum development, accreditation and delivery

As a provider of education services, the department is required to take all reasonable steps to ensure any course, program or service is designed in such a way that it can be modified to enable a child or student with a disability to participate. This will require consultation and if necessary, modification of the course, program or service through reasonable adjustment(s).

The department will ensure that any learning modification is such that children and students with disability are granted the same opportunity to develop their skills, knowledge and understanding as children or students without disability.

Measures will be taken to ensure that curriculum, teaching material, program delivery, learning activities and learning assessment all take account of the functional needs of the child or student and the intended educational outcomes, and the readiness of the child or student.

Standards for support services

Any child or student with a disability must be granted access to support services offered to other children or students on the same basis and without discrimination.

Where specialist support is necessary for the child or student to access and participate in their education program, and is a service that is provided by the department, the department will take all reasonable steps to ensure that the child or student has access to the service or program. Where this is not possible, the site leader may approve that the service or program be provided by an external or private service provider or agency. Such specialised support must be part of the child or student's approved personalised learning program and must meet the approval requirements as set out in the [non-education service providers in preschools, schools and educational programs procedure \(PDF 183KB\)](#).

Standards for harassment and victimisation

The standards require education providers establish the necessary policy, procedure and environment that enables children and students with disability to engage in their approved learning program free from

harassment and victimisation. All relevant preschool, children's centre, school and service-specific policies, procedures and codes of conduct for staff, children and students must explicitly prohibit harassment and victimisation of children and students with disability or their associates, on the basis of disability. These policies will be fair, transparent and accountable.

Staff, children and students should be effectively informed and reminded of their rights and responsibilities in maintaining a safe and inclusive environment free from harassment and victimisation on a regular basis.

Exceptions to the standards

The standards recognise that at times an education institution, site or service may not be able to reasonably comply with the standards. Any such non-compliance can only occur after consultation with the Chief Executive or delegate. It should be noted it is incumbent upon the preschool, children's centre or school to provide grounds for an exception that meets the legal requirement set out by the standards. Assessment of such grounds will, where necessary, be undertaken with advice from the department's legal counsel and will only be granted where the legal advice indicates the situation is such that it is unreasonable to comply with the standards.

It should be noted that the unjustifiable hardship exemption that can be applied to most areas of the standards do not apply to those that relate to victimisation and harassment. Whatever measures are necessary to ensure that a child or student with disability does not suffer victimisation and harassment must be undertaken by the site.

Legal matters and the application of the standards

The standards are established pursuant to section 31 of the Disability Discrimination Act 1992 and form subordinate legislation to that Act. Where a preschool, children's centre and school acts in accordance with the standards the site will not be in breach of the Act in its dealings with children and students with disability. However, any failure to comply with the standards may see the preschool, children's centre and school (and in some cases individual(s)) in breach of the Act.

It must be emphasised that the standards are legal standards that apply to all interactions with children and students with disability and their parents or carers. The obligations particularly set out under parts 4 to 8 must be complied with.

Roles and responsibilities

Education directors

Education directors are responsible for ensuring that all preschools, children's centres, schools, services and programs within their local partnership areas implement and are compliant with the policy. This will require the development of structures and frameworks to evaluate any measures that may be necessary to support its implementation. Education directors are required to ensure that persons presenting with requests relating to children and students with disability are treated in accordance with the standards.

Preschool and children's centre directors and school principals

Make sure all staff working on site implement, and are compliant with, the policy and promote inclusion.

Develop, implement, monitor and review of the personalised learning plan(or like documents) for any child or student with a disability at their site. Parents or carers will be engaged in all stages of this personalised planning process.

Follow the non-education service providers in preschools, schools and educational programs procedure when deciding whether to allow or refuse non-department service providers to provide services to children and students in their settings.

Teachers

Assess the functional needs of each child or student enrolled.

Develop, implement, monitor and review the approved learning program of all children and students, including those with disability. The approved learning program will be reflected in the child or student's personalised learning plan. This plan will be developed by the teacher in consultation with the child or student's support services team in consultation with parents and carers. The child or student's teacher will implement any negotiated adjustments to enable the child or student with disability to engage in their education in a supportive learning environment.

Early childhood workers

Early childhood workers (ECWs) are accountable to the preschool or children's centre director for the provision of para-professional support to individual curriculum programs which contribute to the educational outcomes for children in a preschool or children's centre. While responsibility for individual children's learning programs rests with teachers, ECWs may provide supervised instruction under teacher direction to small groups of children and individual children in specific curriculum areas.

School services officers

Be accountable to the principal for providing curriculum support to teaching staff and children or students that contributes to the achievement of improved educational outcomes for children or students.

Provide supervised instruction under teacher direction to small groups of children or students and individual children or students in specific curriculum areas. Performs duties under the direction of the teacher, that contribute to a safe and inclusive learning environment.

Definitions

disability

- In relation to a person, means the total or partial loss of the persons bodily or mental functions or of a part of the body
- presence in the body of organisms causing disease or illness
- malfunction, malformation, or disfigurement of a part of the person or body.

A disability includes a:

- disorder or malfunction that results in the person learning differently from a person without the disorder or malfunction
- disorder, illness or disease that affects a person's thought processes, perception of reality, emotions or judgment, or that results in disturbed behaviour
- disability that presently exists, or previously existed but no longer exists, or may exist in the future, or is imputed to a person.

To avoid doubt, a disability that is otherwise covered by this definition includes behaviour that is a symptom or manifestation of the disability.

disability standards

The standards made under section 31 of the *Disability Discrimination Act 1992*.

adjustment

As per part 3.3 of the *Disability Standards for Education 2005*, an adjustment is:

- a. a measure or action (or a group of measures or actions) taken by an education provider that has the effect of assisting a child or student with a disability:
 - i. in relation to an admission or enrolment — to apply for the admission or enrolment
 - ii. in relation to a course or program — to participate in the course or program
 - iii. in relation to facilities or services — to use the facilities or serviceson the same basis as a child or student without a disability, and includes an aid, a facility, or a service that the child or student requires because of his or her disability
- b. an adjustment mentioned in subsection 7.2 (4) of the standards
- c. if a change is made to an adjustment mentioned in paragraph (a) or (b) — the adjustment as affected by the change.

reasonable adjustment

As per part 3.4 of the *Disability Standards for Education 2005*, an adjustment is reasonable in relation to a child or student with a disability if it balances the interests of all parties affected.

Note: judgements about what is reasonable for a particular child or student, or a group of children or students, with a particular disability may change over time.

2. In assessing whether a particular adjustment for a child or young person is reasonable, regard should be had to all the relevant circumstances and interests, including the following:
 - a. the child or student's disability
 - b. the views of the child or student or the child or student's associate, given under section 3.5
 - c. the effect of the adjustment on the child or young person, including the effect on the child or student's:
 - i. ability to achieve learning outcomes
 - ii. ability to participate in courses or programs
 - iii. independence
 - d. the effect of the proposed adjustment on anyone else affected, including the education provider, staff and other children or students
 - e. the costs and benefits of making the adjustment.

Note: a detailed assessment, which might include an independent expert assessment, may be required in order to determine what adjustments are necessary for a child or student. The type and extent of the adjustments may vary depending on the individual requirements of the child or student and other relevant circumstances. Multiple adjustments may be required and may include multiple activities. Adjustments may not be required for a child or student with a disability in some circumstances.

3. In assessing whether an adjustment to the course or program in which the child or student is enrolled, or proposes to be enrolled, is reasonable, the provider is entitled to maintain the academic requirements of the course or program, and other requirements or components that are inherent in or essential to its nature.

unreasonable adjustment

The standards generally require providers to make reasonable adjustments where necessary. There is no requirement to make unreasonable adjustments. In addition, section 10.2 of the *Disability Standards for Education 2005* provides that it is not unlawful for an education provider to fail to comply with a requirement of the standards if, and to the extent that, compliance would impose unjustifiable hardship on the provider. The concept of unreasonable adjustment is different to the concept of unjustifiable hardship on the provider. In determining whether an adjustment is reasonable the factors in subsection 3.4 (2) are considered, including any effect of the proposed adjustment on anyone else affected, including the education provider, staff and other children or students, and the costs and benefits of making the adjustment. The specific concept of unjustifiable hardship is not considered. It is only when it has been determined that the

adjustment is reasonable that it is necessary to go on and consider, if relevant, whether this would impose the specific concept of unjustifiable hardship on the provider.

approved learning program

For the purpose of this policy, includes the department preschool, children's centre, primary and secondary schools where children and students are studying the:

- Early Years Learning Framework
- the Australian Curriculum
- SACE or modified SACE
- the International Baccalaureate
- the Steiner Education (Waldorf Schools) Primary or Secondary Certificate
- Technical and Further Education (TAFE) courses or accredited courses offered by registered training organisations
- apprenticeships or traineeships
- university degrees, diplomas or other university award courses
- other programs authorised by the Minister for Education
- a combination of the above.

The approved learning program for the child or student must be clearly documented in the child or young person's personalised learning plan.

support services

Specialised support, provided by internal or external service providers, that is necessary for the child or student to access and participate in their education program.

Supporting information

Related legislation

[Disability Discrimination Act 1992 \(Cth\)](#)

[Disability Inclusion Act 2018 \(SA\)](#)

[Disability Standards for Education 2005 \(Cth\)](#)

[Education and Children's Services Act 2019 \(SA\)](#)

[Education and Children's Services Regulations 2020 \(SA\)](#)

[Education and Early Childhood Services \(Registration and Standards\) Act 2011 \(SA\)](#)

[Equal Opportunity Act 1984 \(SA\)](#)

[United Nations Convention on the Rights of the Child 1990](#)

[United Nations Convention on the Rights of Persons with Disabilities](#)

Related policies

[ACECQA: Belonging, Being and Becoming: The Early Years Learning Framework for Australia \(EYLF\)](#)

[Disability Access Provision \(DAP\) procedure \(PDF 194KB\)](#) (staff login required)

[Curriculum, pedagogy, assessment and reporting: early childhood services to year 12 policy \(PDF 792KB\)](#)

[Safeguarding children and young people policy \(PDF 826KB\)](#)

[Protective practices for staff in their interactions with children and young people: Guidelines for staff working or volunteering in education or care settings \(PDF 3.2MB\)](#)

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