

# Non-education service providers in preschools, schools and educational programs procedure

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

## Overview

This procedure details the process for preschool and school leaders (site leaders) to manage or consider requests from any person or organisation who is independent of the department. The person or organisation must be looking to provide or be providing a direct support or service to children and young people with functional needs in department preschools, schools and educational programs (preschools and schools).

The purpose of this procedure is to provide site leaders with a clear decision making process to follow when deciding whether to allow or refuse non-education service providers who are not funded by the department to provide direct support and services in the department preschools, schools and educational programs.

Site leaders are responsible for, amongst other things, providing, and day-to-day management of instruction in preschool or school in line with the curriculum determined by the Director-General (Chief Executive) and the management of the day-to-day operations of the preschool or school. This includes the consideration to allow or refuse requests from non-education service providers who wish to provide direct services to a child or young person with functional needs during and after preschool or school hours on preschool or school premises.

There's no obligation to either accept or decline a request, and the decision should be made on a case-by-case basis for each child or young person considering the circumstances at the particular preschool or school. The safety of all children on site is the paramount consideration when considering these requests.

## Scope

### In scope

This procedure applies to all staff at department preschools and schools and all children, young people, families and carers who are or may be captured by the:

- provisions of the [Education and Children's Services Act 2019](#)
- the [Disability Discrimination Act 1992](#)
- the [Disability Standards for Education 2005](#)



- [children and students with disability policy \(PDF 195KB\)](#).

This procedure also applies to any person or organisation who is independent of the department, who are not funded by the department and who wish to provide or are providing a direct service to children and young people with functional needs in the department preschools and schools during or after preschool or school hours.

## Out of scope

This procedure does not apply to non-education service providers who are contracted or funded by the department, including those contracted by individual preschools and schools.

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# Detail

To meet the requirements of the [Disability Discrimination Act 1992](#), preschools and schools provide reasonable adjustments to make sure children or young people with disability can access education on the same basis as their peers.

Any reasonable adjustment provided in the preschool or school to ensure a child or young person can access their education on the same basis as their peers must be provided at the expense of the preschool or school rather than through an external funding arrangement, for example through the National Disability Insurance Scheme (NDIS), Medicare funded mental health care plans, etc. Examples of reasonable adjustments can include, but are not limited to, curriculum adjustments, strategies included in personalised learning plans and behaviour plans but do not include therapy. These educational supports are not funded by the NDIS. The NDIS will fund a range of specialised supports for children and young people with disability, however, the purpose of the scheme is not to duplicate or take over the responsibilities of the education system.

The [children and students with disability policy \(PDF 195KB\)](#) states that

‘Where specialised 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 student has access to the service.

If a site leader approves access for an external/private service provider or agency to provide direct services for a child or student, such specialised support will be provided in accordance with the Non-Education Service Providers in Preschools and Schools Procedure.’

This document has been developed to assist site leaders to respond to requests from either families or therapists seeking access for direct supports to be delivered in preschools and schools during preschool or school hours. Site leaders have the right to determine who is able to enter their preschool or school and when.

## Approval process

When a non-Education service provider requests access to department preschools and schools to provide direct supports or services to a child or young person, the site leader must obtain from the non-Education service provider:

- either a current Teachers Registration certificate **OR** a DHS Working with Children Check Unique Identifier and a current Responding to Risks of Harm, Abuse and Neglect – Education and Care certificate (RRHAN – EC) **OR** a DHS Working with Children Check Unique Identifier, a current Responding to Risks of Harm, Abuse and Neglect – Education and Care Bridging Course certificate (RRHAN – EC) and a Safe Environments Training certificate completed in the last three years run by DHS approved providers
- evidence of a completed Child Safe Environments Compliance Statement
- a copy of the non-Education service provider’s Public and Products Liability Insurance Policy
- a copy of qualifications in professional field of practice. Current registration or membership with a

relevant professional organisation, for example, Psychology AHPRA Registration certificate, Occupational Therapy AHPRA Registration certificate, full membership of Speech Pathology Australia, membership of the Australian Association of Social Workers or qualifications relevant to the proposed service being delivered to the child or young person

- any information that details limitations or restrictions that have been placed on professional practice
- details of the proposed service being delivered to the child or young person, including frequency of service, time involved and program being delivered.

To make sure site leaders can adequately act out their duty of care to the child or young person, you should consider what arrangements are required for 'line of sight' supervision of children and young people working with non-Education service providers.

The site leader will use the [record of decision making process regarding the provision of services to children and young people by non-education service providers in department preschools, schools and educational programs \(DOCX 271KB\)](#) (staff login required) to support their decision making in approving or refusing requests for non-education service providers to provide services at the preschool or school.

Site leaders can consider charging non-education service providers for the use of available space in their preschool/school. **Administration costs cannot be charged.** Hire rates can be decided at the discretion of the site leader (in consultation with the Governing Council). Further information can be found in the [principles for additional charges for non-education service providers \(PDF 119KB\)](#) document (staff login required).

Additional fees for services cannot be on-charged by the non-education service providers to families or carers.

## Approved requests

If a site leader agrees to allow a non-Education service provider to provide services at a department preschool or school, a relevant formal agreement (the [Licence Agreement \(DOCX 66KB\)](#) (staff login required)) must be drafted and executed between the Minister for Education and the non-Education service provider. The Licence Agreement is mandatory, and the content of the agreement must not be modified.

Site leaders should refer to the [user guide for the Licence Agreement \(PDF 539KB\)](#) (staff login required) for instructions for completing the agreement.

Before the start of service delivery, a meeting should take place between the preschool or school, the parents of the child or young person and the non-Education service provider to confirm the particular arrangements for the non-Education service provider's attendance at the preschool or school.

Termly reviews are recommended to allow site leaders to withdraw permission for service delivery to continue at the site if it no longer meets the criteria given in the [record of decision making process regarding the provision of services to children and young people by non-education service providers in department preschools, schools and educational programs \(DOCX 271KB\)](#) (staff login required).

## Declined requests

If, after completion of the record of decision making process document above, the request does not meet

the criteria, the site leader may refuse to allow that service to be provided at the preschool or school.

## Withdrawal of permission

If, on review of a service being provided, the site leader considers that the service no longer fits the criteria outlined in the record of decision making process document, the site leader will request a meeting with the non-Education service provider and the parents or carers of the child or young person to discuss concerns. If the concerns cannot be resolved, permission to provide services at the school or preschool will be withdrawn.

## Record keeping

All documentation relating to the process of assessing the appropriateness of access for a non-Education service provider to provide services at a department school or preschool must be kept in line with the [information privacy](#) page on EDi (staff login required). This documentation should include:

- a copy of the [parent/guardian request for the provision of services by a non-Education service provider \(DOCX 60KB\)](#) (staff login required)
- a copy of the [record of decision making process regarding the provision of services to children and young people by non-education service providers in department preschools, schools and educational programs \(DOCX 271KB\)](#) (staff login required) and any additional information that resulted in allowing or refusing a provider to work on preschool or school premises
- copies of required documentation for example:
  - either a current Teachers Registration certificate OR a DHS Working with Children Check Unique Identifier (which must be verified using the [DHS online verification system](#)) and a current Responding to Risks of Harm, Abuse and Neglect – Education and Care certificate (RRHAN – EC) OR a DHS Working with Children Check Unique Identifier, a current Responding to Risks of Harm, Abuse and Neglect – Education and Care Bridging Course certificate (RRHAN – EC) and a Safe Environments Training certificate completed in the last three years run by DHS approved providers
  - current registration or membership with a relevant professional organisation, for example, Psychology AHPRA Registration certificate, Occupational Therapy AHPRA registration certificate, full membership of Speech Pathology Australia, membership of the Australian Association of Social Workers or relevant qualifications
  - a copy of the organisation's [child safe environments compliance statement](#) or a copy of the email generated by the compliance system advising that the process is complete.
  - copy of the non-education service provider's public and products liability insurance policy
  - minutes of all meetings
- a copy of [Permission for Exchange of Information form Non-education Service Providers \(PDF 536KB\)](#) (staff login required) signed by parents
- copies of service provider programs, assessments etc.

# Complaint management and resolution

Any complaints about non-Education service providers will be managed using:

- the [complaint management policy \(PDF 263KB\)](#)
- the [complaint management procedure \(PDF 199KB\)](#) (including appendix 1 – strategies for dealing with unreasonable customer conduct).

## Department legal obligation: duty of care

Site leaders are responsible for the care, supervision and wellbeing of all learners and staff at their preschool or school. The site leader has an obligation to take all reasonable steps to make sure the preschool or school meets the duty of care owed by all department staff at their preschool or school to the children and young people at that preschool or school.

The site leader needs to be certain that appropriate steps have been put in place to allow non-education service providers to access children and young people during preschool or school time in a way that:

- is compatible with the preschool or school's duty of care
- does not prevent the preschool or school's from adequately carrying out this duty.

## Supervision

Supervision of children and young people while support is provided from a non-education service provider is critical. The Minister and department have an established duty of care for its children and young people for the whole time they are required to receive instruction and while on department preschools or schools. All children and young people should be adequately supervised by department personnel as a matter of course. For children and young people with a disability, 'adequate supervision' requires line-of-sight supervision between the child or young person and a department employee.

These obligations are reinforced by the legislative duty under the [Civil Liability \(Institutional Child Abuse Liability\) Amendment Act 2021](#) where a person associated with a preschool or school is to take all reasonable steps to prevent abuse of a child while that child is under the care or supervision of the preschool or school. A person associated with a preschool or school is defined to include leaders, teachers, School Service Officers (SSO's) or volunteers that have been delegated care or supervision of a child.

As a non-education service provider is not a department (or governing council) employee, and is not under the direction and line management of the site leader, there are significant issues in relation to carrying out the preschool or school's duty of care to its children or young people.

Adequate supervision to prevent reasonably foreseeable harm to children or young people cannot be achieved when a non-education service provider (such as a person not employed by the department) is working with a child or young person alone in a room that is not subject to the supervision of department staff. Non-education service providers must not be left unsupervised by department staff with children or young people at any time during the instruction or service.

## Site leader requirements

To meet the duty of care site leaders must:

- comply with all requirements in this procedure
- comply with all department policies and procedures
- sight all relevant documentation as listed above
- make sure a department employee maintains line-of-sight supervision of the non-education service provider and their interactions with the child or young person at all times
- consult with the non-education service provider about processes related to the disclosure of sensitive information. For example, disclosures relating to abuse, suicidal tendencies, sexual assault or bullying should be immediately communicated by the non-education service providers to the site leader so that the preschool or school can take appropriate action and implement all relevant welfare supports and, if appropriate, discharge its mandatory reporting obligations
- make sure that there's a process for sharing updated information about the child or young person's disability (for example, new communication strategies being used by a speech pathologist) so the preschool or school can meet its obligations to make reasonable adjustments for a child or young person with a disability.

This list is not exhaustive and site leaders should do what is reasonable in the given situation to maintain their duty of care for all children and young people in their care and control.

## Exemptions from school attendance

In the event of children and young people being withdrawn from school during school hours for the purpose of receiving regular and ongoing services delivered by a non-education service provider, school principals will use the processes described in the [exemption from school procedure \(PDF 243KB\)](#) for part-time exemptions.

## Roles and responsibilities

### Chief Executive

Make sure department employees and staff employed by department preschools or schools are accountable for its implementation.

### Director, Inclusive Teaching and Learning

Review this procedure with stakeholders within 12 months of implementation and on a 3-yearly basis after that. May also review this procedure at any time should a critical issue arise.

Monitor compliance with this procedure across preschools and schools and help staff comply with the procedure.

## Education directors

Make sure that all preschools or schools within their local partnership implement and comply with the procedure.

## Site leaders – preschool directors and principals

Site leaders must make sure all staff working in preschools or schools implement and comply with this procedure.

Follow the step-by-step process in the procedure to make sure that all non-education service providers working in preschools or schools are approved to provide services on site.

Keep records of all documentation relating to the engagement of the non-education service providers in preschools or schools in line with the [information privacy](#) page on EDi (staff login required).

## Teachers

Provide advice to the site leader about whether the proposed service or instruction is contributing to the improved access, participation and outcomes detailed in the child or young person's learning plan.

## School service officers

Provide advice to the site leader about whether the proposed service or instruction is contributing to the improved access, participation and outcomes detailed in the child or young person's learning plan.

## Early childhood workers

Provide advice to the site leader about whether the proposed service or instruction is contributing to the improved access, participation and outcomes detailed in the child's learning plan.

## Non-education service providers

Provide a service to children and young people as negotiated with the site leader.

Comply with this procedure.

## Families and carers

Inform preschools, schools and the non-education service provider if their child is not attending a non-education service on any given day.

Be responsible for all financial matters relating to non-education service provision.

# Definitions

## site leader

Preschool Director or School Principal.

## support services

Any person or organisation who is independent of the department and is seeking to provide or is providing a direct service to children and young people in a department preschool or school during or after preschool or school hours.

## line of sight supervision

A department employee must be able to see the child or young person at all times when services are provided by a non-education service provider.

## disability standards

The standards made under section 31 of the [Disability Discrimination Act 1992](#).

## adjustment

As per part 3 at 3.3 of the [Disability Standards for Education 2005](#), an 'adjustment' is:

- a) measure or action (or a group of measures or actions) taken by an education provider that has the effect of assisting a student with a disability:
  - i. in relation to an admission or enrolment - to apply for the admission or enrolment; and
  - ii. in relation to a course or program – to participate in the course or program; and
  - iii. in relation to facilities or services – to use the facilities or services; on the same basis as a student without a disability, and includes an aid, a facility, or a service that the 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](#),

- 1) an adjustment is reasonable in relation to a student with a disability if it balances the interests of all parties affected.

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

- 2) In assessing whether a particular adjustment for a student is reasonable, regard should be had to all the relevant circumstances and interests, including the following:
  - a. the student's disability;
  - b. the views of the student or the student's associate, given under section 3.5 of the Standards;
  - c. the effect of the adjustment on the student, including the effect on the student's:
    - i. ability to achieve learning outcomes; and
    - ii. ability to participate in courses or programs; and
    - iii. independence;
  - d. the effect of the proposed adjustment on anyone else affected, including the education provider, staff and other 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 student. The type and extent of the adjustments may vary depending on the individual requirements of the student and other relevant circumstances. Multiple adjustments may be required and may include multiple activities. Adjustments may not be required for a student with a disability in some circumstances.

The standards generally require providers to make reasonable adjustments where necessary. There is no requirement to make unreasonable adjustments. In addition, section 10.2 provides that it is not unlawful for an education provider to fail to comply with a requirement of these 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 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.

In assessing whether an adjustment to the course of the course or program in which the 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.

In providing for students with disabilities, a provider may continue to ensure the integrity of its courses or programs and assessment requirements and processes, so that those on whom it confers an award can present themselves as having the appropriate knowledge, experience and expertise implicit in the holding of that particular award.

# Supporting information

[Australian Curriculum](#)

[Child Protection Curriculum](#)

[Child safe environment compliance statement](#)

[Early Years Learning Framework](#)

[National Disability Insurance Scheme](#)

[National Quality Framework for Early Childhood Education and Care](#)

[Principles for additional charges for non-education service providers \(PDF 119KB\)](#)

## Related legislation

[Australian Human Rights Commission Act 1986 \(Cth\)](#)

[Child Safety \(Prohibited Persons\) Act 2016 \(SA\)](#)

[Children and Young People \(Safety\) Act 2017 \(SA\)](#)

[Civil Liability \(Institutional Child Abuse Liability\) Amendment Act 2021 \(SA\)](#)

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

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

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

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

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

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

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

## Related policies

[Children and students with disability policy \(PDF 195KB\)](#)

[Exemption from school procedure \(PDF 243KB\)](#) (staff login required)

[Governance framework \(PDF 497KB\)](#)

[Managing external contractors procedure \(PDF 176KB\)](#) (staff login required)

[Protective practices for staff in their interactions with children and young people \(PDF 3.2MB\)](#)

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

[Screening and suitability – child safety policy \(PDF 217KB\)](#)

# Record history

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