

Procedure

Non-Education service providers in preschools, schools and educational programs

Please note this procedure is mandatory and staff are required to adhere to the content

Overview

This procedure details the process for preschool and school leaders (site leaders) when managing or considering requests from any person or organisation who is independent of the Department for Education and is looking to provide and/or providing a direct support/service to children and young people in the department preschools, schools and educational programs (preschools and schools).

Scope

This procedure applies to all staff at preschools and schools, operated by the department 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 and the department Children and Students with Disability Policy.

This procedure and its terms outlined below 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 and/or are providing a direct service to children and young people in the department preschools and schools during or after preschool/school hours.

Out of scope

Non-Education service providers who are contracted/funded by the department, including those contracted by individual preschools and schools.

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Title

Non-Education Service Providers in Preschools, Schools and Educational Programs procedure

Purpose

The purpose of this document 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/services in the department preschools, schools and educational programs.

Site leaders are responsible for, amongst other things, the provision, and day-to-day management of the provision, of instruction in preschool/school in accordance with the curriculum determined by the Director-General (Chief Executive) and the management of the day-to-day operations of the preschool/school which includes the consideration of allowing or refusing requests from Non-education service providers who wish to provide direct services to a child or young person during and after preschool/school hours on preschool/school premises. There is 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 in light of the circumstances at the particular preschool or school.

Policy detail

To meet the requirements of the *Disability Discrimination Act (1992)*, preschools and schools provide reasonable adjustments to ensure that children or young people living with disability can access education on the same basis as their peers.

Any reasonable adjustment provided in the preschool/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/school rather than through an external funding arrangement, e.g. 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 individual 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. Further information about the NDIS is included in Appendix 1.

The [Children and students with disability policy](#) 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/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 the department preschools and schools for the purposes of providing direct supports/services to a child or young person in a department preschool or school, the site leader must obtain from the Non-Education service provider:

- Either a current Teachers Registration Certificate OR a DCSI Child Related Employment Screening Letter and a current Responding to Abuse and Neglect - Education and Care Certificate (RAN –EC)
- A 'receipt of lodgement' of a Child Safe Environments Compliance Statement with Families SA
- A current Child Safe Environment Training certificate, eg from SA Health, Families SA which has been completed within the last 3 years. In addition to be compliant with the department requirements, a RAN – EC Update online certificate is also required.
- Copy of the Non-Education service provider's Public and Products Liability Insurance Policy
- Copy of qualifications in professional field of practice. Current registration and / or membership with a relevant professional organization, 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 relevant to the proposed service being delivered to the child or young person
- Any information which details limitations or restrictions which 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 ensure site leaders can adequately discharge their duty of care to the child or young person they 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 Provision of Service to Children and Young People by Non-Education Service Providers in the department Preschools, Schools and Educational Programs](#) (Appendix 2) to support their decision making in approving or refusing Non-Education service providers' requests to provide services at the preschool or school.

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](#)) must be drafted and executed between the Minister for Education and the Non-Education service provider. The Licence Agreement is mandatory; the content of the agreement must not be modified. Site leaders should refer to the [User Guide for the Licence Agreement](#) for instructions for completing the agreement.

Prior to the commencement of service delivery, a meeting should take place between the preschool/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/school. Termly reviews are recommended to enable 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 Provision of Service to Children and Young People by Non-Education Service Providers in the department Preschools, Schools and Educational Programs](#).

Declined requests

If, after completion of the [Record of Decision Making Process regarding Provision of Service to Children and Young People by Non-Education Service Providers in the department Preschools, Schools and Educational Programs](#) 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 regarding Provision of Service to Children and Young People by Non-Education Service Providers in the department Preschools, Schools and Educational Programs](#), the site leader will request a meeting with the Non-Education service provider and the parents/caregivers 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 accordance with the [Information privacy and confidentiality standard](#). This documentation should include:

- a copy of the [Parent/guardian request for the provision of services by a non-Education service provider](#)
- a copy of the [Record of Decision Making Process regarding Provision of Service to Children and Young People by Non-Education Service Providers in the department Preschools, Schools and Educational Programs](#) and any additional information that resulted in allowing or refusing a provider to work on preschool or school premises
- copies of required documentation; e.g.
 - Current Teachers Registration certificate, OR current DCSI Child Related Employment Screening clearance and Responding to Abuse and Neglect – Education and Care certificate
 - Current registration and/or membership with a relevant professional organization, 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
 - 'Receipt of Lodgement' of a Child Safe Environments Compliance Statement with Families SA
 - Child Safe Environment Training certificate, eg from SA Health, Families SA which has been completed within the last 3 years and a RAN – EC Update online certificate
 - Copy of the Non-Education service provider's Public and Products Liability Insurance Policy
 - Minutes of all meetings

- Copy of [PEXIO2 – Permission for Exchange of Information form](#) signed by parents
- Copies of service provider programs, assessments etc.

Complaint management and resolution

Any complaints concerning Non-Education service providers will be managed using the

[Consumer Complaints Management and Resolution Policy and Procedure](#), and the [Unreasonable Complainant Conduct Procedure](#).

Department for Education 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 ensure 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/school time in a manner that is compatible with the preschool/school's duty of care and which does not impinge on the preschool or school's ability to adequately discharge this duty.

Supervision of children and young people during the provision of support from a Non-Education service provider is critical. The Minister/Department for Education 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. As such all children and young people should be adequately supervised by the 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.

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 the discharge of the preschool/school's duty of care to its child or young persons. Adequate supervision to prevent reasonably foreseeable harm to children or young people cannot be achieved when a Non-Education service provider (i.e. 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.

To meet the duty of care site leaders need, but are not limited to:

- Comply with all requirements in this procedure
- Comply with all department policies and procedures
- Sight all relevant documentation as listed above
- Ensure line-of-sight supervision at all times by a department employee of the Non-Education service provider and their interactions with the child or young person
- 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.

- Ensure that there is a process for sharing of 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 to 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 [Student exemptions from attending school procedure](#) for part time exemptions.

Roles and responsibilities

Chief Executive

The Chief Executive will ensure that department employees and staff employed by department preschools or schools are accountable for its implementation.

Education Directors

Education Directors are responsible for ensuring that all preschools or schools within their local partnership implement and are compliant with the policy.

Site Leaders – Preschool Directors, Principals

Site leaders are required to ensure that all staff working in preschools or schools implement and are compliant with this procedure. They are also responsible for following the step by step process in the procedure to ensure that all Non-Education service providers working in preschools or schools are approved to provide services on site.

The site leader must keep records of all documentation relating to the engagement of the Non-Education service providers in preschools or schools in accordance with the [Information privacy and confidentiality standard](#).

Teachers

Teachers are responsible for providing advice to the site leader regarding whether the proposed service or instruction is contributing to the improved access, participation and outcomes as detailed in the child or young person's learning plan.

School Service Officers

School Service Officers are responsible for providing advice to the site leader regarding whether the proposed service or instruction is contributing to the improved access, participation and outcomes as detailed in the child or young person's learning plan.

Early Childhood Workers

Early Childhood Workers are responsible for providing advice to the site leader regarding whether the proposed service or instruction is contributing to the improved access, participation and outcomes as detailed in the child's learning plan.

Non-education Service Providers

Non-Education service providers are responsible for providing a service to children and young people as negotiated with the site leader. They are also responsible for adhering to the relevant requirements of this procedure.

Families and carers

Families and carers are responsible for informing department preschools, schools and the Non-Education service provider if their child is not attending a Non-Education service on any given day. Families and carers are responsible for all financial matters relating to Non-Education service provision.

Monitoring, evaluation and review

This procedure will be reviewed with stakeholders within 12 months of implementation and thereafter on a three yearly basis. Reviews may also be held at any time should a critical issue arise.

The Director, Special Education, will provide ongoing monitoring of compliance with this procedure across preschools and schools and assist staff to comply with the procedure.

Definitions and abbreviations

Site Leader

Preschool Director or School Principal.

Support Services

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

Line of sight supervision

A department employee must be able to see the child or young person at all times during the provision of services 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) *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) *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;*
- c) *an adjustment mentioned in subsection 7.2 (4) of the Standards;*
- d) *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 none-the-less 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.

Note: 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

Related legislation

[Education and Children's Services Act 2019](#) and regulations under the Act

[Disability Discrimination Act 1992](#)

[Disability Standards for Education 2005](#)

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

[Equal Opportunity Act 1984 \(South Australia\) Early Years Learning Framework](#)

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

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

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

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

[Australian Human Rights Commission Act 1986](#)

Related policies

[Protective Practices for staff in their interactions with children and young people](#)

[Keeping Safe: Child Protection Curriculum Australian Curriculum](#)

[Children and Students with Disability Policy](#)

[Department of Human Services, Child Safe Environment Compliance Statement](#)

[Child Protection in schools, early childhood education and care Policy, 2015](#)

[Screening and Suitability – Child Safety Policy](#)

[Student exemptions from attending school procedure](#)

[Information privacy and confidentiality standard Education Regulations 2012](#)

[SMARTAR Goal and SMART Intervention toolkit](#)

[Managing External Contractors Procedure](#)

[Department for Education Policy Framework](#)

[Early Years Learning Framework](#)

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

[National Disability Insurance Scheme](#)

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Appendices

Appendix 1: Information for department preschool and school leaders regarding NDIS funded services

Appendix 2: [Record of decision making process regarding provision of service to children and young people by Non-Education service providers in department preschools and schools](#)

Appendix 3: [Parent/guardian request for the provision of services by a Non-Education service provider on preschool or school premises during preschool or school hours](#)

Appendix 4: [Licence agreement between the Minister for Education and Non-Education service provider](#)

Appendix 5: The [user guide for the licence agreement](#)

Appendix 1: Information for department Preschool and School Leaders regarding NDIS Funded Services

Recently, there has been significant growth in the number of Non-Education service providers seeking access to department preschools and schools to provide direct services to children and young people. This has occurred due to a variety of reasons including the implementation of the National Disability Insurance Scheme (NDIS) which has enabled children, young people and their families/carers to make choices about the support and services that they receive.

The NDIS is the most significant social policy and funding reform to be implemented in Australia since Medicare was introduced in 1975. Its purpose is to double disability funding in Australia and give people with a permanent and significant disability greater choice and control over how and by whom their disability supports are delivered.

During its first year of operation there were four active trial sites in Australia: the Hunter region of New South Wales (0-65 years); Tasmania (14-25 years); South Australia (0-14 years) and the Barwon region of Victoria (0-65 years). On 1 July 2014 the NDIS commenced across the Australian Capital Territory, the Barkly region of Northern Territory and in the Perth Hills area of Western Australia. From 1 July 2015 the NDIS started in the Nepean Blue Mountains area of NSW for children and young people under 18 years of age.

Although the NDIS will fund a range of specialised supports for children and young people with a disability, the purpose of the scheme is not to duplicate or take over the responsibilities of the education system. The NDIS program recognises the ongoing responsibility of the education system for assisting NDIS-supported children or young people with their 'educational attainment'. This is contrasted with the purposes of the NDIS funding, which is to assist children with 'functioning' more broadly, regardless of the setting.

Preschools and schools will continue to provide 'reasonable adjustments' for children and young people with disabilities to enable them to access the curriculum on an equal basis with their peers. Any reasonable adjustments 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 through the NDIS. Examples of reasonable adjustments include employing teachers, SSOs or ECWs, facilitating access to educational resources, learning-specific aids and equipment such as computers and text books, making reasonable adjustments to the curriculum to enable access by children and young people with disability, modifications to enable physical access to department preschools and schools etc. These educational supports are not funded by the NDIS.

In contrast to these educational supports, certain therapies are properly defined as 'whole of life' therapies and may be funded by the NDIS. A request for NDIS-funded therapy to occur during preschool/school time should not be treated as supplementing or replacing the preschool/school's legal obligations to provide educational programs for children and young people with disabilities.

As a consequence of the introduction of the NDIS, site leaders may receive additional requests from either families or therapists for therapeutic supports to be delivered in preschools and schools during preschool/school hours. These therapeutic supports are whole-of-life disability supports and could be delivered in a range of settings including department preschools and school.