

Children and Young People with Disability

Summary

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1. TITLE

Children and Young People with Disability Policy

2. PURPOSE

1. To ensure that Department for Education and Child Development (DECD) sites, programs and/or services are inclusive of children and young people with disability;
2. To ensure that all children and young people with disability who are attending a DECD site, program or service are provided with a personalised learning and support program that meets the functional needs of the child/young person and the requirements of the Early Years Learning Framework and/or the Australian Curriculum; and
3. To clearly set out the legal responsibilities of DECD personnel in providing inclusive learning programs and/or services to children and young people with disability.

3. SCOPE

This policy applies to all staff at sites, settings and programs operated by the DECD and all children, young people, families and carers who are or may be captured by the provisions of the Disability Discrimination Act 1992 and the Disability Standards for Education 2005. It also captures early childhood and public education services, including some services previously delivered by Families SA and SA Health via the Women's and Children's Health Network.

4. POLICY DETAIL

DECD sites, programs and services have responsibility for maximising the learning outcomes and wellbeing of all children and young people and for providing access to a high-quality education that is free from discrimination. All children and young people are entitled to quality education experiences. Children and young people should feel that they are included in an environment of high expectation where they are both able and enabled to learn.

At the core of inclusive education is the human right to education for all, which is pronounced in the Universal Declaration of Human Rights in 1948 (UNESCO). This resource supports inclusive education.

Inclusive education means that all children and young people are welcomed by their preschool/school in age-appropriate settings and are supported to learn, contribute and participate in all aspects of their learning. Inclusive education is about how preschools/schools are developed and designed, including classrooms, programs and activities so that all children and young people learn and participate together. In order to create an inclusive environment, changes and modifications may need to be made to help a child or young person or group of children/young people participate on the same basis as their peers. The changes or modifications made will reflect the assessed functional needs of the child or young person and can be made in both the classroom and whole school setting.

Modifications are often referred to as levels of adjustment to meet functional needs. Levels of adjustment can be made in a range of areas to support an individual child/young person, including but not limited to the way that teaching and learning is provided, changes to the classroom or school environment, the way that the child or young persons' progress and achievements are assessed and reported to parents/carers, the provision of

personal care and planning to meet functional needs, as well as professional learning for teachers and support staff.

The legal responsibilities of educators who work with children and young people with disability are outlined in the Disability Standards for Education 2005 (the Standards).

The following sets out the policy considerations and obligations arising from the Disability Standards 2005 (“the Standards”). The Standards are legal standards that apply to all interactions with children and young people with disability and their parents/carers. Each heading has a “part” reference that reflects the provisions contained within that Part of the Standards.

In seeking to provide for all children and young people and in complying with the Standards DECD acknowledges that amongst other matters the degree to which a disability affects a child or young person’s learning is determined by the functional needs of the child/young person, the learning environment and the child or young person’s ability to interact with that environment. Children and young people with disability have a diverse range of needs that may change over time and from situation to situation. Therefore inclusive education provision must be such that it meets these changing needs as they occur.

4.1 Reasonable adjustments, enrolment for children and young people with disability (part 3 & 4)

4.1.1 The Standards require that jurisdictions make reasonable adjustments to enable children and young people with disability to participate in an education program or service on the same basis as children and young people without disability.

4.1.2 These adjustments include but are not limited to taking measures that enable children and young people with disability to:

- enrol at their local preschool or zoned 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 young people through modification of facilities and equipment, where necessary;
- access additional support funding and make necessary adjustments, where required;
- access to special support options, including special schools, special units, special support options and other tailored programs; and
- Access and participate in all aspects of the Early Years Learning Framework and/or the Australian Curriculum; and
- Access to statewide support and disability services.

4.1.3 DECD is committed to inclusion and taking reasonable steps to ensure that children and young people with disability can attend their local preschool or school, on the same basis as a prospective child or young person without disability, and without experiencing discrimination.

4.1.4 DECD also provides education through [Special Options for children and young people with disability](#) special schools, disability units, special classes and other special programs. Placement in a DECD special option class or program occurs in accordance with the Special Class, Disability Unit and process for placement in a special class, disability unit or special school.4.1.5

4.2 Standards for participation (part 5)

- 4.2.1 This Standard establishes the need for access to be granted that is reasonable and in effect provides the same access for children and young people without disability once any reasonable adjustments have been made or can be made. These support options will allow children and young people with disability to achieve at the highest level through quality care and teaching.
- 4.2.2 In determining these Standards for participation, sites are required to consult as necessary not only with the child/young person and their parent/carer but also with those support organisations identified by the child/young person's support team or which are identified by the child/young person and their parent/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/young person to access and participate in their education on the same basis as their peers. From this consultation will come the required personalised learning plan such as a **Negotiated Education Plan** or '**One Child, One Plan**' (OCOP) that sets out their functional needs, their educational aspirations, aims and objectives for that individual child or young person to participate in their personalised education program. Resourcing through the [Preschool Support Program](#) or [Disability Support Program](#) may be required for some children and young people to enable the implementation of their personalised plan.
- 4.2.3 Courses and instruction techniques will, where necessary, be adjusted/modified to ensure access and participation and such adjustments that have facilitated access need to be considered/assessed/reviewed as the child or young person's needs change over time.

4.3 Standards for curriculum development, accreditation and delivery (part 6)

- 4.3.1 As a provider of education services DECD 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 young person with a disability to participate. This will require consultation and if necessary modification of the course, program or service through reasonable adjustment(s).
- 4.3.2 Furthermore DECD will ensure that any program modification is such that children and young people with disability are granted the same opportunity to develop their skills, knowledge and understanding, including through any supplementary programs as children or young people without disability.
- 4.3.3 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 young person and the intended educational outcomes and the capacity of the child or young person.

4.4 Standards for support services (part 7)

- 4.4.1 Any child or young person with a disability must be granted access to student support services offered to other children/young people on the same basis and without discrimination.
- 4.4.2 Where specialised support is necessary for the child or young person to access and participate in their education program, and is a service that is provided by DECD, DECD will take all reasonable steps to ensure that the child or young person has access to the service or program. Where this is not possible,

DECD may approve that the service or program be provided by an external/private service provider or agency. Such specialised support will be provided in accordance with the Non-DECD Service Providers Procedure (Support Services).

4.5 Standards for harassment and victimisation (part 8 & 9)

- 4.5.1 The Standards require education providers to establish the necessary policy, procedure and environment that enables children and young people with disability to engage with their program free from harassment and victimisation.
- 4.5.2 These requirements may see it necessary for sites and services to have a specific policy and procedure aimed at ensuring staff, children and young people do not engage with children and young people with disability or their carers/supporters in a manner that is harassing, discriminatory or causes the child/young person/carer/supporter to feel victimised or ostracised. In sites and services where bullying and other like behaviour is problematic, or simply through the high number of children and young people with disability within the site, then a site specific policy must be developed. Any policy that is developed must however align with the site or service's anti-bullying policy and the department's Child Protection in Schools, Early Childhood Education and Care Policy.
- 4.5.3 Site and service specific policies, procedures and codes of conduct for staff, children and young people must explicitly prohibit harassment and victimisation of children and young people with disability or their associates, on the basis of disability. These policies et cetera will be fair, transparent and accountable.
- 4.5.4 Staff, children and young people will be effectively informed and reminded of their rights and responsibilities in maintaining a safe environment free from harassment and victimisation on a regular basis. This may require the publishing of newsletters to staff and the site's community on an "as needs" basis.

4.6 Exceptions to the Standards (part 10)

- 4.6.1 The Standards recognise that at times an education institution/site/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 site 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 "Parts" of the Standards do not apply to those Parts of the Standards that relate to victimisation and harassment. Whatever measures are necessary to ensure that a child or young person with a disability does not suffer victimisation and harassment must be undertaken by the site.

4.7 Legal matters and the application of the Standards

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

- 4.7.2 It cannot be emphasised enough that the Standards are legal standards that apply to all interactions with children and young people with disability and their carers. The obligations particularly set out under Parts 4 to 8 must be complied with.

5. ROLES AND RESPONSIBILITIES

Role	Authority/Responsibility for
Chief Executive	The Chief Executive will endorse this policy and will ensure that DECD employees and staff employed by DECD sites and services are accountable for its implementation.
Education Directors	Education Directors are responsible for ensuring that all sites, services and programs within their local partnership area 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. Furthermore Education Directors are required to ensure that persons presenting with requests relating to children and young people with disability are treated in accordance with the Standards.

Role	Authority/Responsibility for
Preschool Directors & School Principals	<p>Preschool Directors and School Principals are required to ensure that all staff working on the site implement and are compliant with the Policy. They are also responsible for the development, implementation, monitoring and review of individual Negotiated Education Plans (or like documents) for any child or young person with a verified disability at their site. Such reviews need to occur, as a minimum at least twice per year. Parents/carers and advocates will be engaged in all stages of this program planning process.</p> <p>Preschool Directors and principals are also responsible for following the Non-DECD Service Providers in Preschools, Schools and Education Programs Procedure (Student Support Services) when deciding whether to allow or refuse non-DECD service providers to provide services to children and young people on DECD sites.</p>
Teachers	<p>Teachers are responsible for assessing the functional needs of each child and young person enrolled. Teachers are also responsible for developing, implementing, monitoring and reviewing the 'approved learning program' of all children and young people, including those with disability. The approved learning program will be reflected in the child/young person's NEP/OCOP. This plan will be developed by the teacher in consultation with the child/young person's student support services team. The child/young person's teacher will implement any negotiated instruments to enable the child or young person with disability to engage in their education in a supportive learning environment.</p>
Early Childhood Workers	<p>Early Childhood Workers (ECWs) are accountable to the Preschool Director for the provision of para-professional support to individual curriculum programs which contribute to the educational outcomes for children in a preschool. 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.</p>
School Services Officers	<p>School Services Officers (SSOs) are accountable to the School Administrative Officer for the provision of curriculum support to teaching staff and children and young people which contributes to the achievement of improved educational outcomes for children and young people. SSOs may also provide supervised instruction under teacher direction to small groups of children and young</p>

people and individual child/young person in specific curriculum areas. Supervision, under teacher direction, of children and young people with challenging behaviours may also be required during lunch and other breaks as negotiated with the principal.

6. MONITORING, EVALUATION AND REVIEW

This policy will be evaluated not more than three years from the commencement date. Reviews may also be held at any time should a critical issue arise.

7. DEFINITIONS AND ABBREVIATIONS

Term	Meaning
“Act” means	the <i>Disability Discrimination Act 1992</i>
“Disability” means	<p>In relation to a person, means:</p> <p>The total or partial loss of the person’s bodily or mental functions, or of a part of the body, the presence in the body of organisms causing disease or illness, or the 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, or a disorder, illness or disease that affects a person’s thought processes, perception of reality, emotions or judgment, or that results in disturbed behaviour. It includes a disability that presently exists, or previously existed but no longer exists, or may exist in the future, or is imputed to a person.</p> <p>To avoid doubt, a disability that is otherwise covered by this definition includes behaviour that is a symptom or manifestation of the disability.</p>
“Discrimination” means	Any distinction, exclusion, restriction, or preference made on a particular basis, such as race, sex, religion, national origin, marital status, pregnancy or disability . For a more detailed definition see the provisions of sections 5, 6, 7 & 8 of the Disability Discrimination Act.
“Disability Standards” means	The standards made under section 31 of the Disability Discrimination Act 1992.
‘Adjustment’ means	<p>As per Part 3.3 of the Disability Standards for Education 2005, an “adjustment” is:</p> <p>(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/young person with a disability:</p> <ul style="list-style-type: none"> (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; <p>on the same basis as a child/young person without a disability, and includes an</p>

	<p>aid, a facility, or a service that the child/young person requires because of his or her disability;</p> <p>(b) an adjustment mentioned in subsection 7.2 (4);</p> <p>(c) if a change is made to an adjustment mentioned in paragraph (a) or (b) — the adjustment as affected by the change</p>
<p>“Reasonable adjustment” means</p>	<p>As per Part 3.4 of the Disability Standards for Education 2005, an adjustment is <i>reasonable</i> in relation to a child/young person with a disability if it balances the interests of all parties affected.</p> <p><i>Note</i> Judgements about what is reasonable for a particular child/young person, or a group of children/young people, with a particular disability may change over time.</p> <p>(2) In assessing whether a particular adjustment for a child/young person is reasonable, regard should be had to all the relevant circumstances and interests, including the following:</p> <p>(a) the child/young person’s disability;</p> <p>(b) the views of the child/young person or the child/young person’s associate, given under section 3.5;</p> <p>(c) the effect of the adjustment on the child/young person, including the effect on the child/young person’s:</p> <p>(i) ability to achieve learning outcomes; and</p> <p>(ii) ability to participate in courses or programs; and</p> <p>(iii) independence;</p> <p>(d) the effect of the proposed adjustment on anyone else affected, including the education provider, staff and other children/young people;</p> <p>(e) the costs and benefits of making the adjustment.</p> <p><i>Note</i> A detailed assessment, which might include an independent expert assessment, may be required in order to determine what adjustments are necessary for a child/young person. The type and extent of the adjustments may vary depending on the individual requirements of the child/young person and other relevant circumstances. Multiple adjustments may be required and may include multiple activities. Adjustments may not be required for a child/young person with a disability in some circumstances.</p> <p>(3) In assessing whether an adjustment to the course of the course or program in which the child/young person 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.</p>
<p>“Unreasonable adjustment” means</p>	<p>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/young people, and the costs and benefits of making the adjustment. The specific concept of</p>

	<p>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.</p>
<p>For the purpose of this Policy an education program includes:</p>	<ul style="list-style-type: none"> • DECD Preschool, Primary and Secondary Schools where children and young people are studying the: <ul style="list-style-type: none"> ○ Early Years Learning Framework; ○ The Australian Curriculum; ○ 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 and Child Development; or <p>A combination of the above. The approved learning program for the child/young person must be clearly documented in the child or young person’s NEP or OCOP. Such plans must be monitored and reviewed by the child or young person’s student support services team, as a minimum, twice per year.</p>
<p>Student Support Services Team</p>	<p>Schools are responsible for conducting functional assessments of children and young people and identifying those who may require additional support. To access the support offered by the DSP, the needs of a child/young person with disability must be assessed using a five-step process. The process involves gathering information that can be used in planning to meet the education, care and access needs of the child/young person.</p> <p>In the first step, a student support services group considers relevant information from the preschool, school, child/young person and parent/caregiver using a ‘Team Around the Child’ (TAC) approach. The nature and amount of information gathered by the student support services group will reflect the needs of the child/young person and should include the range of measures that the school has already undertaken to meet the child/young person’s educational and/or care needs, including any relevant assessments, reports and early childhood information. Parents and/or caregivers are valued members of their child’s support group. They are able to provide information about their concerns and observations of their child and they must be included in all decision-making processes.</p> <p>The TAC model promotes effective multi-agency collaboration and multidisciplinary working to positively engage parents/caregivers and ensure better educational outcomes for the child/young person involved. For example, the membership of the student support services team should be reflective of the child/young person’s needs and circumstances and include some or all of the following personnel:</p> <ul style="list-style-type: none"> • Principal or nominee • Parent/caregiver/child or young person

	<ul style="list-style-type: none"> • Class teacher • Site-based staff where relevant (e.g. special education teacher or coordinator) • DECD support services staff, as appropriate • Medical practitioners/specialists (e.g. Paediatricians, Child Development Unit, Child and Adolescent Mental Health Service (CAMHS), or Child and Youth Health (CYH) • Relevant allied health professionals (e.g. psychologists, speech pathologists, counsellors, social workers, behaviour coaches, physiotherapists, occupational therapists, etc); and • Other agency staff as appropriate (e.g. Autism SA, Down Syndrome Society, Novita, Disability SA, Child and Youth Health, CanDo4Kids, SPELD SA, advocacy groups). <p>Members of the student support services group may use a range of processes, formal meetings and informal discussions to gather and act on information. As advised earlier, membership of the group will vary according to the type of information being sought and the needs of the child/young person.</p>
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8. SUPPORTING DOCUMENTS

- [Education Act 1972](#) (South Australia) and regulations under the Act
- [Children’s Services Act 1985](#)
- [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](#) [the principles of the Act recognise ‘children’s rights and interests as paramount and meaningful interactions in which children’s voices are listened to and acted upon to support successful learning’.
- [SA Child Protection Act 1993](#)
- [Australian Human Rights Commission Act 1986](#)
- [Age Discrimination Act 2004](#)
- [Racial Discrimination Act 1975](#)
- [Sex Discrimination Act 1984](#)
- [Protective Practices for staff in their interactions with children and young people](#)
- [Child protection in schools, early childhood education and care](#)
- [DECD Policy Framework](#)
- [DECD Governance Framework](#)
- [Leading Learning 4 All Resources](#)
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9. REFERENCES

Same as Supporting Documents.

10. APPENDIX

Nil