

# 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 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.



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 personal 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 resources 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 adapted or modified

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harassment and victimisation. All relevant preschool, children's centre, school and 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

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# 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) documents for any child or student with a disability at their site. Parents/carers will be engaged in all stages of the personalised planning process.

Follow the non-education service providers in preschools, schools and educational programs approved 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.



# 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

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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 \(EYLF\)](#)

[Disability Access Provision \(DAP\) procedure \(PDF 1.5MB\)](#) (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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## Revision record

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Amendment(s): Added the new 'Disability Access Provision (DAP) procedure' to related policies section.

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