

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 [creatingfr t](#)



Government
of South Australia

Department for Education

- [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

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Detail

To meet the requirements of the [Disability Discrimination Act 1995](#) 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 in accordance with section 20A(1)(b) of the Act.

relevant professional organisation, for example, Psychology AHPRA Registration certificate

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 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.

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 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 standard for children and young people with disabilities (7)-5.5 (c)2.2 (hi)-

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 assessor, 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 a reasonable 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 skills.

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 \(SA\) s.7 \(i\)-1.581.5 and Human Rights Act 1993 \(Vic\) s.2.2 \(8\) s.2.8 \(l\)-1.9 \(e\)-2.9 \(l\)](#)

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