



Disability Standards for Education 2005 (Cwlth)



Photo: Welcome to the Fold

Approved providers, service supervisors and management and educators of early childhood education and care (ECEC) services have a responsibility to ensure that they meet their legal obligations. For kindergartens, this includes meeting the requirements of the [Disability Standards for Education 2005 \(Cwlth\)](#).

What are the Disability Standards for Education 2005?

The *Disability Discrimination Act 1992 (Cwlth)* (DDA) sets out the rights of people (including children) with disability to access and participate in services and facilities to the same extent, and on the same basis, as other members of the Australian community. To help organisations and services to meet the requirements of the DDA, the Australian Government created standards in some priority areas. These include the Disability Standards for Education 2005. The Disability Standards have the same legal impact as the DDA.

Which services are covered by the Disability Standards?

While the DDA applies to all ECEC services, the Disability Standards for Education 2005 apply only to kindergartens (along with public and private schools and tertiary education providers). Although long day care, family day care and outside school hours care services are not required to meet the Disability Standards, they may choose to use them as a guide to good practice. Approved providers should note that, in 2015, the Australian Government stated that it 'will consider extending the application of the Standards to include childcare providers' (DET, 2015, p. 9).

What do the Disability Standards contain?

The Disability Standards for Education 2005 provide clear guidance on how to meet the requirements of the DDA. They:

- clarify and determine the rights of individuals with disability
- state that a person with disability is able to enrol in and participate in programs, and use facilities, on the same basis as a person without disability, and must be treated the same as any other person
- explain that reasonable adjustments must be made to enable a person with disability to participate in the program.

The Disability Standards cover five specific areas of an educational service:

- enrolment
- participation
- curriculum
- support services
- preventing harassment and victimisation.

What do the Disability Standards mean for kindergartens?

In order to meet the Disability Standards for Education 2005, kindergarten providers are required to:

- **consult** with the family to understand the impact of a child's disability on their learning and development, and determine whether any adjustments and changes are required
- **make reasonable adjustments** where necessary to processes and procedures around enrolment, access and participation in the kindergarten program and curriculum development
- **eliminate harassment and victimisation** by ensuring children with disability are not isolated, humiliated, intimidated or distressed.

Consultation with families

The Disability Standards for Education 2005 do not specify how consultation should occur, as this will depend on the context of each child and family. The Standards do highlight that consultation is not 'once-only', and must be ongoing for the length of time that the child with disability is enrolled in the service. (See Information Sheet 10—*Developing a Disability Action Plan* in this series for advice about how to create effective partnerships with families.)

Enrolment policies and practices

All ECEC services must extend the right to enrol to all children. In addition, kindergartens are required by the Disability Standards for Education 2005 to make the enrolment process clear and accessible for the child and their family. For example this may mean that the enrolment process takes longer and involves more discussion than for some other families.

An inclusive curriculum

In the Disability Standards for Education 2005, an inclusive curriculum is one in which a child with disability is 'able to participate in the learning experiences ... on the same basis as a [child] without disability' (DEEWR, 2006, p. 23). This means that the curriculum offered at a kindergarten is designed to support the meaningful participation of all the children who attend, including those with disability. The *Queensland Kindergarten Learning Guideline* (QKLG) and *Building Waterfalls* (accredited by the Queensland Curriculum and Assessment Authority)

have been developed to be inclusive and can support and guide educators of ECEC services in providing an inclusive curriculum.



Photo: Lime

Eliminating harassment and victimisation

The Disability Standards for Education 2005 promote 'an educational environment free from discrimination, harassment or victimisation' on the basis of a child's disability (DEEWR, 2006, p. 31). The Standards place a clear obligation on education providers to implement strategies to prevent harassment and victimisation of children with disability. This includes leading and developing a culture amongst staff, children and their families that eliminates harassment and victimisation. It also includes taking action if harassment or victimisation occurs and providing a clear complaint mechanism for children and their families (See Information Sheet 9—*Developing and reviewing policies and procedures* in this series for advice about developing and reviewing your policies and procedures.)

What are reasonable adjustments?

The Disability Standards for Education 2005 require approved providers, service supervisors and management, and educators to make reasonable adjustments to enable a child with disability to access and participate in the ECEC service on the same basis as a child without disability. Assessing what is a reasonable adjustment requires consultation and discussion with the child, their family and any other support agencies involved.

The Disability Standards for Education 2005 do not require changes to be made if this would impose 'unjustifiable hardship' on the approved provider. In deciding against certain changes, a kindergarten would need to demonstrate that the changes required to facilities, staffing or program would be extensive and unmanageable, and therefore beyond the ECEC service's resources or available funding. In such circumstances, it is important to consider all options and explore the possibility of an alternate adjustment that would be less disruptive and intrusive, but no less beneficial to the child. When considering the options, it is important to focus on the purpose of an adjustment, which is to support the child to:

- achieve individualised outcomes
- participate fully in the program
- be as independent as possible.

The Australian Human Rights Commission

If a child or their family believes they have not been able to access and participate in education on the same basis as other children, the child or family may make a complaint to the Australian Human Rights Commission (AHRC). To investigate this complaint, the AHRC may convene a compulsory conciliation between the two parties. At a conciliation hearing, the approved provider will be asked to demonstrate the steps it has taken to meet its obligations under the Disability Standards for Education 2005 to consult, make reasonable adjustments and prevent victimisation and discrimination. If conciliation is unsuccessful, legal proceedings may be commenced.

Where to find more information

The University of Canberra has produced an online guide to the Disability Standards for Education 2005, featuring video, fact sheets and case studies: [Disability Standards for Education – a practical guide for individuals, families and communities](#).

How to unpack relevant legislation and standards

Approved providers, service supervisors and management, and educators of early childhood education and care (ECEC) services are required to comply with a range of state and federal laws and regulations. To help you 'unpack' the relevant legislation, try asking these key questions:

- What are the goals of the legislation—what is it trying to achieve for individuals and the wider community?
- What are the responsibilities of the ECEC service's management team?
- What are the responsibilities of individual members of the governing body?
- What responsibilities can be delegated to the ECEC service's officers, such as the Nominated Supervisor and the management team?
- What measures, such as plans, policies and procedures, need to be in place to enable the ECEC service as a whole to meet its legal obligations under the relevant Act or regulation?

It is also important to keep abreast of changes to legislation and standards that may occur from time to time. You can download a copy of the current legislation from www.comlaw.gov.au/Details/C2015C00252

The government department or statutory authority that is responsible for oversight of the legislation also provides resources, such as plain English guides and fact sheets, to help you better understand the requirements of the legislation. Here are some from the Commonwealth Department of Education and Training:

[Fact Sheet 1: Disability Discrimination Act 1992](#)

[Fact Sheet 2: Disability Standards for Education 2005](#)

[Fact Sheet 3: Parental engagement](#)

[Fact Sheet 4: Effective consultation](#)

[Fact Sheet 5: Complaints processes](#).



References

Department of Education, Employment and Workplace Relations (DEEWR). (2006). *Disability Standards for Education 2005 plus guidance notes*. Canberra: DEEWR.

Department of Education and Training (DET). (2015). *Australian Government initial response to the 2015 Review of the Disability Standards for Education*. Canberra: DET.

Department of Education and Training (DET). (2014). *Fact Sheet 2: Disability Standards for Education 2005*. Canberra: DET.

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