



## Advocating for your child: The early years

This is a toolkit for parents and caregivers of young children with disability. It explains your child's rights in early childhood education and care (ECEC) services and how you can advocate for your child in ECEC.

## About this resource

This resource was funded by the Australian Government. It was designed by parents and caregivers of children with disability, with help from Children and Young People with Disability Australia (CYDA).

The Australian Government acknowledges the Traditional Owners and Custodians of Country throughout Australia. We acknowledge their continuing connection to land, water, and community. We pay our respects to them and their Elders past and present. We pay our respects to the continuing cultural, spiritual, and educational practices of Aboriginal and Torres Strait Islander peoples.

## Note on language

This resource uses person-first language (e.g., ‘child with disability’). But this approach does not suit everyone, and many people prefer identity-first language (e.g., ‘disabled child’).

It is up to each person how they choose to identify. We encourage you to ask people what they prefer. We also acknowledge the deep history behind all these terms.

People use ‘**reasonable adjustments**’, ‘adjustments’, or ‘accommodations’ to mean the same thing. We use these phrases interchangeably in this resource. ‘**Reasonable adjustments**’ is used in the *Disability Discrimination Act 1992*.

This resource is for parents and caregivers. We say ‘your child’ to mean any child you are responsible for.

## Additional resources

This is one part of a group of resources. You can find them on the [Australian Government Department of Education website](#) or by scanning the QR code.

This resource is also available in Easy Read, Auslan, and several other languages. You can access those versions on the [Australian Government Department of Education website](#) or by scanning the QR code.

**Content note:** This toolkit has examples of exclusion. For support you can call Lifeline on **13 11 14** or text **0477 13 11 14**.



Scan the QR code

## Who this toolkit is for

This toolkit is for you if you have a young child with disability. You may be their parent or caregiver.

## What this toolkit is for

This toolkit is to help you advocate for your child in early childhood education and care (ECEC) services. This means talking with ECEC services to make sure they provide the education and care your child has a right to.

**Advocating** for your child means speaking up for them.

**ECEC services** are preschools and kindergartens, and other educational early childhood services, including centre based care, family day care, in home care, outside school hours care and vacation care.

**Rights** for children with disability in ECEC are legal rights under Australian law.

## What this toolkit covers

This toolkit:

- provides information and ideas to help you advocate for your child
- gives you key words and suggestions to use when talking to ECEC services
- explains how ECEC services can support your child to join in and learn.

It covers:

- [Australian disability discrimination law \(p. 2\)](#)
- [What these laws mean for your child \(p. 4\)](#)
- [Rights and responsibilities \(p. 4\)](#)
- [Questions to ask when choosing ECEC services \(p. 6\)](#)
- [More information and support \(p. 7\)](#)



## Australian disability discrimination law

All children with disability in Australia are protected by the ***Disability Discrimination Act 1992*** (DDA).

Your child is covered by the DDA when they go to any ECEC service.

### **Definition: The Disability Discrimination Act 1992**

The DDA is a law that applies to everyone in Australia. It protects people from being discriminated against because of their disability. This means that they cannot be treated worse than they would be if they weren't disabled. This includes unfair treatment in ECEC services.

ECEC services are also covered by the ***Disability Standards for Education 2005*** (DSE). The DSE set out what these services must do to support children with disability.

### **Definition: The Disability Standards for Education 2005**

The DSE are a set of laws that come under the DDA. They clarify the obligations of education providers.

The DSE explain the rights of students with disability and what education providers need to do to support and protect them.

You can learn more in our [Explaining the Disability Standards for Education](#) resource.

Under the DDA and the DSE, children with disability have the right to:

- access education and care services on the same basis as children without disability
- receive **reasonable adjustments**
- be protected from mistreatment.

### Definition: Reasonable adjustments

An adjustment is a change or accommodation. It is an action that supports a child with disability to take part in ECEC services in a similar way to their peers. Adjustments help a child with disability to participate on the same basis as children without disability.

Adjustments can be people, materials, or changes in how things are done.

If a change is reasonable, ECEC services generally have to make it. They do not have to make a change that creates **unjustifiable hardship** for them.

### Definition: Unjustifiable hardship

An unjustifiable hardship is an adjustment that would be too much for the service to make. For example, an adjustment might be too expensive.

It is up to the service to show that the adjustment would cause unjustifiable hardship. Caregivers and families do not have to show anything.

Every part of the situation should be considered when deciding if this exception should be used.

This includes:

- positive or negative effects of the change on everyone involved (e.g., your child, the service, the educators, or other children)
- the effect of the disability on your child
- the financial situation of the service (e.g., if the service has access to financial assistance or other forms of help – or the estimated cost of making the adjustment).





## What these laws mean for your child

Your child with disability has the same rights as children without disability to:

- enrol in ECEC services
- join in and learn in a similar way to their peers.

They should have the same (or very similar) choices and opportunities.

## Rights and responsibilities

### ***Does my child need a diagnosis for the DDA or DSE to apply?***

Your child does not need a diagnosis for the DDA and the DSE to apply. If a child is thought to live with disability, then the DDA and DSE can be used.

If your child has a disability, their ECEC service might need to make reasonable adjustments to support them. They may not need proof of a diagnosis to agree to this, but it can help to provide a letter (or similar) from your health professional. This can support the service to know what adjustments your child needs.

### ***Does a service have the right to refuse my child?***

ECEC services are not generally allowed to refuse your child due to their disability. Children with disability have the same rights as their peers to:

- enrol in ECEC services
- take part in ECEC services.

ECEC services cannot put a limit on how many children with disability they accept. Generally, they cannot use a lack of funding as a reason to refuse enrolment. If the service is not currently set up to support your child, they must make changes unless they can prove an exception applies. (See Unjustifiable hardship ([p. 3](#)))



***Can I ask for reasonable adjustments?***

Yes! An ECEC service should make reasonable adjustments for your child. They should support your child to join in. You can work with the service to find adjustments that best support your child.

**Example:**

A child communicates using a Pragmatic Organisation Dynamic Display (PODD) book. Their educator learns how to support them to use it. This allows the child to communicate their needs and what they are thinking.

‘Joining in’ must be real and meaningful. Your child should be included in every part of the program or activity.

**Example:**

A child is sitting in the same room as their peers, watching the others play with blocks. This activity is set up in a way that stops the child from playing too. This **does not** count as joining in.

***Can I ask the service to support my child's self-care tasks, including eating and toileting?***

Yes! It is a form of reasonable adjustment.

A service might call some kinds of tasks ‘medical support’ – for example, using a feeding tube or breathing aid. It’s not unreasonable to ask services whether they are able to offer these supports. If the service cannot do so, they need to be able to explain why.

**Find out more**

To learn more about how children with disability are protected under the DDA, or what to do if a service is not meeting their obligations, check out the Australian Human Rights Commission’s [DDA guide](#).

## Questions to ask when choosing ECEC services

It can be tricky to figure out which service will work best for your child.

It may help to make a list of questions to ask each service – and yourself.



For example:

- What is the attitude of the service towards diversity, difference, and disability?
- How will they support my child?
- How will they support my family?
- What are their values and beliefs? All services will have these in their 'statement of philosophy'.
- How do the staff follow these values in their work?
- How will they work with me to get to know, learn about and support my child?
- How do they organise reasonable adjustments (if needed)?
- Other questions:

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To find answers, you can meet with staff from the service. You can also look online – e.g., on social media or the service’s website. You can also ask other parents and caregivers.

It may help to think about what your ideal answer would be to each question. This will give you a clearer idea of the type of service you’re looking for.

## More information and support

- *Disability Standards for Education 2005* (<https://www.legislation.gov.au/Details/F2005L00767>)
- *Disability Discrimination Act 1992* (<https://www.legislation.gov.au/Details/C2018C00125>)
- Disability Australia Hub (<https://www.disabilityaustraliahub.com.au/>)  
– A list of disability organisations
- Disability Gateway (<https://disabilitygateway.gov.au/education/early-childhood>) – Links to services, advocates and information on early childhood education
- Australian Government Department of Education (<https://www.education.gov.au/early-childhood>)
- ECEC for parents and caregivers (<https://www.startingblocks.gov.au>)
- Raising Children Network (<https://www.raisingchildren.net.au>)  
– Parenting/caregiving information and resources





[www.education.gov.au/disability-standards-education-2005/information-resources-students-disability-and-their-caregivers](http://www.education.gov.au/disability-standards-education-2005/information-resources-students-disability-and-their-caregivers)