



Disability Standards for Education **2005**

Background

The *Disability Standards for Education 2005* (the Standards) seek to ensure that students with disability can access and participate in education on the same basis as other students.

On the same basis means that a student with disability must have opportunities and choices which are comparable with those offered to students without disability. This applies to:

- admission or enrolment in an institution
- participation in courses or programs
- use of facilities and services.

The Standards also promote recognition and acceptance within the community that students with disabilities have the same fundamental rights as the rest of the community.

The Standards provide further detail on the obligations of education and training providers, and the rights of people with disability, under the *Disability Discrimination Act 1992* (DDA). The Standards are subordinate legislation made under the DDA.

Visit the [Disability Standards for Education 2005](#) webpage on the Department of Education's website for additional background information and resources intended to help people interpret and comply with the Standards.

What the Standards do

The Standards provide further guidance on rights and responsibilities in relation to disability and education and training. The Standards cover the areas of enrolment, participation, curriculum development, accreditation and delivery, student support services and the elimination of harassment and victimisation. Table 1 provides a summary of the rights and requirements for each area.

The Standards set out the:

- the rights of students with disability in relation to education and training to help people understand what is fair and reasonable under the Standards
- further detail about what amounts to an adjustment and when the making of an adjustment will be considered reasonable

- the legal obligations or responsibilities of education providers to ensure the provider does not discriminate against students or prospective students
- measures that may be implemented to comply with the requirements of the Standards.

All education providers are bound by the Standards including preschools and kindergartens, public and private schools, public and private education and training places and tertiary institutions including TAFEs and universities.

Under the Standards, education providers are required to ensure that persons with disabilities are able to enrol and participate in education and have access to educational facilities and services *on the same basis* as a person without disabilities. This is achieved primarily through:

- consultation with the person with a disability
- the making of reasonable adjustments; and
- the elimination of harassment and victimisation.

Consultation

Education providers must consult to understand the impact of a student's disability and to determine whether any adjustments or changes are needed to assist the student. Although there is not a strict process outlined in the Standards, some important considerations for education providers include:

- taking proactive steps to engage students and families, consulting early and often to begin building respectful relationships and set an open and collaborative 'tone' going forward
- ensuring communication is regular and structured to provide opportunities to identify goals, agree on reasonable adjustments, address issues as they arise and solve problems
- being aware of cultural, linguistic and accessibility needs. This includes the potential need for multimodal information sharing and flexible arrangement to minimise the burden on families
- providing records about the issues discussed during the consultation and the decisions made

The obligation to consult continues for the whole time that the student is involved with the education provider. This ensures that the changing needs of the student are met over time.

Reasonable adjustments

Education providers are required to make reasonable adjustments. The Standards set out information about how education providers can meet the obligation to make reasonable adjustments where necessary.

An adjustment is a measure or action taken to assist a student with disability to participate in education and training on the same basis as other students. It can include aids, facilities or services that the student requires because of their disability.

In assessing whether a particular adjustment for a student is reasonable decision makers must have regard for all the relevant circumstances, including:

- the student's disability (including functional impact and related support needs)
- the views of the student and/or their carer or support person
- the effect of the adjustment on anyone else (such as fellow students)

- the costs and benefits of making the adjustment.

The process of consultation outlined is an important part of ensuring that providers are meeting their obligations in relation to reasonable adjustments.

The Standards do not require changes to be made if this would impose **unjustifiable hardship** on the education provider. All relevant circumstances are to be taken into account when assessing unjustifiable hardship including:

- benefit or detriment to any persons concerned
- the effect of the disability of the person on any person concerned
- financial circumstances of the education provider.

Exceptions from the requirements of the Standards are set out in Part 10. In cases where an education provider believes that an exception applies, it is the responsibility of the provider to demonstrate how the exception operates.

Eliminating harassment and victimisation

The Standards require that education providers develop and implement strategies to prevent harassment and victimisation of people with disability. Harassment in the Standards means an action taken in relation to people with disability that is reasonably likely to humiliate, offend or intimidate the person.

Harassment and victimisation of students with disability is unlawful and education providers must take all reasonable steps to prevent this from happening. Harassment and victimisation of a person who has an associate with a disability (such as a spouse, relative or carer of a person with a disability) must also be addressed.

An education provider must take reasonable steps to ensure staff and students are informed about:

- the obligation not to harass or victimise students with a disability, or their associates
- the appropriate action to be taken if harassment or victimisation occurs
- complaint mechanisms available to a student who is harassed or victimised in relation to a disability of the student or of an associate of the student.

An education provider must have strategies or programs in place to prevent harassment and victimisation, irrespective of whether the provider considers or is aware that harassment or victimisation is occurring within its institution. Further, the exception of unjustifiable hardship does not apply to the prevention harassment or victimisation under the Standards.

Measures for compliance

The Standards describe measures that can be taken to meet the requirements of each part of the Standards. The measures described are not exhaustive and may not cover the needs of all students with disabilities, or all educational contexts. Additional or alternative action may be required to comply with the Standards.

What happens if there is a breach?

Under section 32 of the DDA it is unlawful for a person to contravene a Disability Standard. An aggrieved person or someone on their behalf can make a complaint to the Australian Human Rights Commission (AHRC) about non-compliance with the DDA. This includes complaints about non-compliance with a Disability Standard. In some circumstances, an aggrieved person may commence legal proceedings in the Federal Court or Federal Magistrates Court if their complaint is not resolved through the AHRC processes.

In addition, all states and territories have equal opportunity or anti-discrimination legislation. People who wish to lodge a complaint about discrimination can choose to do this under the Commonwealth's *Australian Human Rights Commission Act 1986* or the relevant state/territory legislation.

More information

For copies of the Standards and additional resources visit the [Department of Education](#) website, specifically the [Disability Standards for Education 2005](#) webpage. Information on rights and requirements under the Standards is provided in Table 1.

Table 1: Rights and Requirements under the Standards

Topic	Rights	Requirements
Enrolment	• Right to seek admission and enrol on the same basis as prospective students without disability including the right to reasonable adjustments.	• Required to take reasonable steps to ensure that the enrolment process is accessible. • Consider students with disability in the same way as students without disability when deciding to offer a place. • Consult with the prospective students or their associates about the effect of the disability on their ability to seek enrolment; and make any reasonable adjustments necessary.
Participation	• Right to access courses and programs; use services and facilities; and have reasonable adjustments, to ensure students with disability are able to participate in education and training on the same basis as students without disability.	• Required to take reasonable steps to ensure participation. • Consult with the student or their associate about the effect of the disability on their ability to participate. • Make a reasonable adjustment if necessary. • Repeating this process over time as necessary.
Curriculum development, accreditation and delivery	• Right to participate in courses and relevant supplementary programs that are designed to develop their skills, knowledge and understanding, on the same basis as students without disability and to have reasonable adjustments to ensure they are able to participate in education and training.	• Required to design learning experiences so that students with disabilities can participate (including assessment and certification)" • Consult with the student or their associate. • Take into consideration whether the disability affects the student's ability to participate in the learning experiences and adjust courses as required.

Student support services	• Right to access student support services provided by education institutions, on the same basis as students without disability. Students with disability have the right to specialised services needed to participate in the educational activities they are enrolled in.	• Required to consult with students to understand: ○ whether the disability affects the student's ability to access support services, and ○ if there is a need for specialised support services. • Ensure that students with disability are able to access general support services. • Ensure that students have access to specialised support services, where available. • Facilitate the provision of specialised support services.
Harassment and victimisation	• Right to education and training in an environment that is free from discrimination caused by harassment and victimisation on the basis of their disability.	• Implement strategies to prevent harassment or victimisation of students with disabilities and their associates • Take reasonable steps to ensure that staff and students are informed about their obligation not to harass or victimise students with disability. • Take appropriate action if harassment or victimisation occurs. • Ensure complaint mechanisms are available to students.

