

# POLICY

## STUDENTS WITH DISABILITY

Responsibility of: School Support Services  
Effective Date: January 2016  
Next Review Date: January 2019  
Target Audience: Corporate and School Staff, Parents and Community

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This document should be read in conjunction with the:

- [Students with Disability guidelines](#)
- [Diagnostic Assessment guidelines](#)
- [Enrolment in Special Schools and Special Centres guidelines](#)
- [Transition from School for Students with Disability guidelines](#)
- [Transport for Students with Disability policy and guidelines](#)

### 1. POLICY

The Department of Education (department) is committed to ensuring that all students with disability receive an education in a supportive environment that values diversity, inclusion and participation. The Northern Territory celebrates diversity and inclusion and this is embodied in the department's [Philosophy of Inclusion](#). Schools ensure that students with disability are provided with education services and support appropriate to their needs. [Planning for personalised learning and support](#) is imperative for students with disability.

Under section 32 of the [Disability Discrimination Act 1992](#), education providers must comply with the [Disability Standards for Education 2005](#) (the Standards). The Standards 'clarify the obligations of education and training providers and seek to ensure that students with disability can access and participate in education on the same basis as other students'.<sup>1</sup> The [Education Act](#) provides for the access of all children and young persons to education programs appropriate to their individual needs and abilities.

The [Northern Territory Anti-Discrimination Act](#) protects the rights of an individual to fair and equal opportunities in education. Students with disability are protected under the [Northern Territory Anti-Discrimination Act](#) as it is unlawful to treat people unfairly or discriminate against them as a result of their impairment.

#### 1.1 The Standards

The Standards support education providers to provide learning opportunities and curriculum access that meets the needs of students with disability, on the same basis as their peers. All staff have the responsibility of ensuring that the Standards are met. To help staff engage with the Standards the [Disability Standards for Education Course](#) is available online.

<sup>1</sup> Australian Government Department of Education <https://education.gov.au/disability-standards-education>

### a) Enrolment

The department:

- identifies the [priority enrolment](#) area school as the first point of contact for the initial enrolment of all students
- commits to provide through special schools/centres, special support programs and the priority enrolment area school, a range of resources and services which acknowledge the diversity of students with disability
- provides special schools/centres, Territory-wide specialist services and programs as centres of expertise with a focus on sharing information to support the curriculum needs of students with disability.

### b) Participation

The department is committed to:

- developing working partnerships with students, parents/caregivers, teachers, service providers and other agencies to build on the strengths of students with disability and give them the opportunity to achieve to the best of their ability
- supporting students with disability by providing access to programs within the community
- ensuring that its teaching, learning and support materials and other information are available on [iSupport](#).

### c) Curriculum development, accreditation and delivery

The department:

- delivers education to students with disability based on students' needs rather than the description of disability
- provides a negotiated appropriate learning experience for all students with disability
- personnel and education providers are responsible for providing an appropriate curriculum and ensuring effective delivery of services to students with disability
- maps achievement of students with disability against the Australian Curriculum and/or Early Years Learning Framework
- provides negotiated education within the guidelines, and documents an appropriate curriculum or access to curriculum for students with disability through [planning for personalised learning and support](#) to develop an appropriate plan; which will include an appropriate Education Adjustment Plan (EAP) and/or a combination of the following: Student Support Plan (SSP), Individual Behaviour Plan (IBP), Individual Learning Profile (ILP), Health Care Plan (HCP), Risk Assessment, Individual/Transition Plan (I/TP), and/or other.

### d) Student support

The department:

- commits to building organisational capacity by offering online professional learning activities targeted to support the staff who work with the learners and their families/caregivers, and advocates or non-governmental support agencies
- will enter into documented collaborative arrangements with outside agencies to provide effective coordinated delivery of services to support students with disability and their families/caregivers
- provides students with disability access to negotiated, appropriate support in line with the [Response to Intervention](#)<sup>2</sup> service delivery model
- provides Student Support advisors who support schools to build the capacity of school leaders and teachers around the planning of personalised learning for students with disability.

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<sup>2</sup> Response to Intervention Service Delivery Model. *Student Support* [iSupport](#). DoE. Web. 20 Feb. 2015. <http://ed.nts.schools.net/studserv/studentsupport/Pages/welcome.aspx>

#### e) Elimination of harassment and victimisation

The Disability Discrimination Act (1992), the Disability Standards for Education 2005 and the Northern Territory Anti-Discrimination Act set legal requirements in relation to discrimination or harassment on the grounds of disability.

All students with disability have the right to participate in education in a safe environment, free from harassment and victimisation. Consistent with the legislative requirements:

- the policies, procedures and codes of conduct for staff and students explicitly prohibit harassment and victimisation of students with disability, or their associates, on the basis of disability
- the procedures for handling any [complaints](#) of harassment and victimisation relating to disability will be fair, transparent and accountable
- students and staff will be clearly informed and reminded of their rights and responsibilities in regard to maintaining a safe environment free from harassment and victimisation on the basis of disability
- any complaints of harassment or victimisation on the basis of disability will be addressed promptly and with due regard to the seriousness of the matter.

Please refer to the [Teacher Registration Board's Protective Practices](#) document for information which informs protective practices for teachers.

#### f) Reasonable adjustments

A reasonable adjustment is a measure or action taken to assist students with disability to participate in education and training on **the same basis as** other students.

Education providers:

- comply with the Standards; make **reasonable adjustments** to accommodate students with disability; ensure that a student's disability does not predetermine his/her educational placement; however, due consideration must be given to the ability of the school to provide reasonable educational adjustments in order to meet a student's specific needs and disability requirements.
- understand that what is reasonable in terms of educational adjustments or in meeting a student's special needs will ultimately be governed by the relevant anti-discrimination legislation.
- understand that consultation between staff and the parents/caregivers of a student is a critical aspect of the placement of the student, and should always focus on the placement providing the best outcomes for the student.
- undertake a thorough consultation process to identify the capabilities of the student, the barriers to meeting the Standards and the measures required to meet the Standards.
- plan for personalised learning for all students with disability that require adjustments of any kind.
- ensure that every student with disability has the right to appropriate curriculum and assessment through the development of an individualised education adjustment plan or an appropriate plan. For further information on processes and templates refer to [iSupport](#).
- apply for, and provide, examination adjustments for students with disability who are writing external exams, in a timely and considered manner. Specific procedures for Year 11 and Year 12 external exam adjustments or special provisions can be found at the following websites: [Australian Curriculum](#) and [Reporting Assessment](#); [South Australian Certificate of Education](#); [International Baccalaureate Program](#).

If a school deems that an adjustment constitutes an 'unjustifiable hardship', the Principal must discuss this with the Regional Director who will consult with the Director of Student Support. Under the Disability Discrimination Act 1992, an adjustment is not required if making the adjustment would impose 'unjustifiable hardship' on an education provider. **However**, the burden of proof falls on the education provider claiming unjustifiable hardship.

Further information regarding adjustment protocols/procedures is provided in the [Students with Disability guidelines](#) and available on [iSupport](#).

### **1.2 Measures for [compliance](#)**

The Standards outline measures for compliance that provide examples of what can be done to meet the requirements of each part of the Standards. The measures are examples only and may not cover the needs of all students with disability, or all educational contexts. In some circumstances compliance with the Standards may require additional or alternative actions.

### **1.3 Breaches**

In accordance with Section 32 of the Disability Discrimination Act 1992 it is unlawful for a person to contravene a Standard. Principals need to be aware that an aggrieved person or someone on their behalf can make a complaint to the Australian Human Rights Commission. Section 24 (3) of the Northern Territory Anti-Discrimination Act identifies the "failure to accommodate special need". The aggrieved person or someone on their behalf can make a complaint to the [Northern Territory Anti-Discrimination Commission](#) who will conciliate in the event of non-compliance with the Disability Discrimination Act 1992. This includes complaints about non-compliance with a disability standard. For further support read the [Students with Disability Guidelines](#) and the [Fact Sheet 2: Disability Standards for Education 2005](#)

All school staff have an obligation to ensure that they do not breach the standards.

### **1.4 Principles**

The following principles of this policy allow students with disability to attend schools without conditions or restrictions, and provide service protocols to plan and implement provision for students with disability.

- Students with disability have the right to fully access, without restrictions, an inclusive education<sup>3</sup> through the Australian Curriculum and/or Early Years Learning Framework.
- All education providers must refer to the principles governing 'adjusted age' and 'school participation age' for students with disability regarding participation, curriculum and assessment.
- Learning programs focus on each student's abilities and provide learning experiences that are relevant, meaningful and rigorous.
- Schools are to include in their Strategic Improvement and Annual Operational Plans how this policy is enacted in their context and should use the [Whole School Inclusion Matrix](#) to inform their practice.
- Each student and his/her family/caregivers have the right to expect transparency of process in relation to decisions made about the student. They are recognised as partners in education and will be actively supported in exercising their right to participate in the decision making processes in a timely fashion.
- All external assessment providers must adhere to the [Diagnostic Assessment guidelines](#) when providing services to students with disability.

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<sup>3</sup> Inclusive education provides all children with the possibility to learn together without discrimination. It should take into account the diversity of disabled children. United Nations Educational, Scientific and Cultural Organisation (UNESCO)

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- All staff providing student profiling or standardised assessments must adhere to the [Special Education Assessment Practices](#).
- Students with disability are connected with, and informed about, appropriate post-school options. Post-school options can include further education or vocational training, open or supported employment, or a community participation pathway. Please refer to the [Transition from School for Students with Disability guidelines](#).
- Schools must have sound reasons and clear processes instituted when considering suspending students with disability. Please refer to the [Students with Disability guidelines](#) regarding strategies and processes related to suspending students with disability.

## 2. BUSINESS NEED

This policy and its associated guidelines support schools in meeting the needs of students with disability in line with national and Northern Territory legislative requirements.

Non-compliance with this policy and its associated guidelines could result in a breach under section 32 of the Disability Discrimination Act 1992 or the Anti-discrimination Commission and may lead to legal proceedings in the Federal Court or Federal Magistrates Court.

According to the [Melbourne Declaration on Educational Goals for Young Australians \(2008\)](#) all students in the Northern Territory have the right to access a broad and balanced education that will prepare them for participation in society. They have the right to an education that meets their individual, cultural, social, emotional, physical and intellectual needs as lifelong learners. The two goals that are relevant to this policy are:

- Australian schooling promotes equity and excellence
- all young Australians become successful learners, confident and creative individuals and active and informed citizens.

## 3. SCOPE

Guided by [Disability Standards for Education 2005](#),<sup>4</sup> this policy and the associated guidelines apply to all education providers within the Northern Territory including Northern Territory Government schools, Independent Public Schools, and long day care or preschool facilities; which are required to support students with disability through improved learning experiences and educational outcomes that enable successful transition to further education or work.

This policy covers students with disability, under Section 32 of the [Disability Discrimination Act 1992](#) and as articulated in the [Disability Standards for Education 2005](#) and the [Northern Territory Anti-Discrimination Act](#).

For the purposes of this policy, diagnosis or identification of a disability includes: intellectual/cognitive, sensory, physical, social/emotional, language/communication disability; a specific learning disability; or multiple disabilities and trauma. However, this does not preclude other disabilities or impairments identified in the Commonwealth Disability Discrimination Act and in the Northern Territory Anti-Discrimination Act.

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<sup>4</sup> Disability Standards for Education is subordinate legislation under the Commonwealth *Disability Discrimination Act 1992*. The Standards clarify and elaborate the legal obligations in relation to education.

## 4. DEFINITIONS

### Appropriate Plan

[Planning for personalised learning and support](#) is imperative for students with disability. Students with disability must be provided with an appropriate adjustment plan. This may include, but not be limited to, an Education Adjustment Plan (EAP) and/or a combination of the following: Student Support Plan (SSP), Individual Behaviour Plan (IBP), Individual Learning Profile (ILP), Health Care Plan (HCP), Individual Transition Plan (ITP), Risk Assessment and /or a Transition Plan (TP). The type of adjustment plan created will be directly linked to the area of disability that needs support or that enables the students to access their education on the same basis as their peers. Examples can be accessed on [iSupport](#).

### Consultation

Consultation is the critical practice of involving those people who have an in-depth knowledge and understanding of the capabilities and circumstances of the student. Teachers, parents/caregivers and the student need to regularly meet in order to make reasonable adjustments.

**Disability**, in relation to a person, means:

- (a) total or partial loss of a person's bodily or mental functions, or
- (b) total or partial loss of a part of the body, or
- (c) the presence in the body of organisms causing disease or illness, or
- (d) the presence in the body of organisms capable of causing disease or illness, or
- (e) the malfunction, malformation or disfigurement of a part of the person's body, or
- (f) a disorder or malfunction that results in the person learning differently from a person without the disorder or malfunction, or
- (g) a disorder, illness or disease that affects a person's thought processes, perception of reality, emotions or judgment, or that results in disturbed behaviour;

and includes disability that:

- (h) presently exists, or
- (i) previously existed but no longer exists, or
- (j) may exist in the future, or
- (k) is imputed to a person.

([Disability Standards for Education 2005](#))<sup>5</sup>; ([Disability Discrimination Act, 1992](#))

### Harassment

Harassment in this case means an action taken in relation to people with disability that is reasonably likely to humiliate, offend, intimidate or distress a person.

### Parent

Parent, for the purpose of this document, includes

- the child's father, mother or any other person who has parental responsibility for the child and also for an Aboriginal or Torres Strait Islander child includes a person who is regarded as a parent under Aboriginal or Torres Strait Islander customary law or Aboriginal or Torres Strait Islander tradition;
- a guardian/caregiver and is a person who has parental responsibility for a child or daily care and control of a child, is the person with whom a child currently resides, or is a person caring for the child at any given time.

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<sup>5</sup> [Disability Standards for Education](#). *Disability Standards for Education*. Web. 9 February. 2015. <https://education.gov.au/disability-standards-education>

According to the **Education Act (sections 7 & 8)** a person has parental responsibility for a child if the person has daily care and control of the child (i.e. is entitled to exercise all the powers, rights and responsibilities in relation to the day-to-day care and control of the child) or is entitled to exercise all the powers, rights and responsibilities in relation to the long-term care and development of the child, or both.

### **Reasonable adjustments**

Reasonable adjustments refer to the adjustments required for students with disability to access their education 'on the same basis' as their peers.

### **School participation age**

The age at which a student may participate in education at a school or special setting 'on the same basis' as his/her peers. Refer to the Education Act (NT) regarding school participation laws; Part 5, section 33, provides detailed information in regard to 'Children with Special Learning Needs'<sup>6</sup>.

### **Students with disability**

Students with disability refers to children, students or learners who require special assistance or adjustments and support because of cognitive, physical, social, emotional or sensory impairment that impacts their ability to participate in education on the same basis as their peers.

For the purposes of this policy, diagnosis of disability includes: intellectual/cognitive, sensory, physical, social/emotional, language/communication disability; a specific learning disability; or multiple disabilities and trauma. However, this does not preclude other disabilities or impairments identified in the Commonwealth Disability Discrimination Act and in the Northern Territory Anti-Discrimination Act.

### **Students with additional or special needs**

Students affected by disability or medical or emotional condition or trauma, or neglect, may face additional challenges when attending school or in the community. When a child has additional needs, this may restrict him/her from being able to do some of the things that other children can do. In the Northern Territory Anti-Discrimination Act these students with additional needs are described as having 'special needs'.

### **Unjustifiable hardship**

If the adjustments required to accommodate a person with a disability impose an unreasonable burden on the education provider, then it may be considered an unjustifiable hardship.

### **Victimisation**

Victimisation takes place if a person subjects, or threatens to subject, another person, or an associate of the other person, to any detriment.

## **5. ROLES AND RESPONSIBILITIES**

Refer to the [Students with Disability guidelines](#).

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<sup>6</sup> Education Act (NT). Northern Territory Consolidated Acts. Web. 2 March. 2015. [http://www5.austlii.edu.au/au/legis/nt/consol\\_act/ea104/](http://www5.austlii.edu.au/au/legis/nt/consol_act/ea104/).

## 6. RELATED POLICY, LEGISLATION, DOCUMENTS AND RESOURCES

<b>Student Support</b>	<ul style="list-style-type: none"> <li>• <a href="#">iSupport</a> provides a range of resources that support schools to meet the needs of students with disability.</li> </ul>
<b>Departmental</b>	<ul style="list-style-type: none"> <li>• <a href="#">Students with Disability policy</a></li> <li>• <a href="#">Students with Disability guidelines</a></li> <li>• <a href="#">Enrolment Management and Priority Enrolment guidelines</a></li> <li>• <a href="#">Enrolment in Special Schools and Special Centres guidelines</a></li> <li>• <a href="#">Diagnostic Assessment guidelines</a></li> <li>• <a href="#">Special Education Assessment Practices for staff</a></li> <li>• <a href="#">Transition from School for Students with Disability guidelines</a></li> <li>• <a href="#">Transport for Students with Disability policy and guidelines</a></li> <li>• <a href="#">Philosophy of Inclusion</a></li> </ul>
<b>Northern Territory</b>	<ul style="list-style-type: none"> <li>• <a href="#">Education Act (NT)</a></li> <li>• <a href="#">Northern Territory Anti-Discrimination Act</a></li> </ul>
<b>National</b>	<ul style="list-style-type: none"> <li>• <a href="#">Disability Discrimination Act 1992</a></li> <li>• <a href="#">Disability Standards for Education 2005</a></li> <li>• <a href="#">Melbourne Declaration on Educational Goals for Young Australians (2008)</a></li> </ul>

## 7. ACKNOWLEDGEMENT

The department gratefully acknowledges and thanks the South Australian Department for Education and Child Development for its permission to substantially base this document on [Students with Disability policy](#). *South Australia Department of Education and Children's Services*. Web. 30 November. 2014.