



Understanding disability rights

The rights of people with disability are protected by a range of international treaties, Australian laws, state legislation, and standards. These laws and standards are designed to ensure that individuals with disability can participate fully and with equal access and opportunities to everyone else. Having a disability should never mean having fewer opportunities. Everyone deserves fairness, inclusion, and the support to reach their full potential. Below you will find an introduction to the various protections that are in place in Australia to protect the rights of people with disability, and links to further information and practical tools to support you to advocate for your rights.

International

Convention on the Rights of Persons with Disabilities (CRPD)

The CRPD is an international human rights convention which sets out the fundamental human rights of people with disability. The aim of the CRPD is to promote, protect and ensure all human rights and fundamental freedoms by people with disabilities, and to promote respect for their inherent dignity. The CRPD safeguards rights to inclusive education, participation in sport and culture, access to facilities, and full inclusion within the community. Australia signed the CRPD in 2008.

Find out more:

- <https://social.desa.un.org/issues/disability/crpd/convention-on-the-rights-of-persons-with-disabilities-crpd>
- <https://humanrights.gov.au/our-work/disability-rights/united-nations-convention-rights-persons-disabilities-uncrpd>

International Disability Equity and Rights Strategy

This is Australia's global framework for advancing equality, inclusion, and participation for people with disability. It builds on the CRPD by focusing on removing barriers, reducing discrimination, and supporting leadership by people with disability in international forums. The strategy guides how Australia works with other countries to promote inclusive education, accessible communities, and respect for disability rights worldwide. It aims to increase the availability of information and communications products in accessible formats, recognising that access to information can promote human rights and support sustainable development

Find out more:

- <https://www.dfat.gov.au/publications/publications/australias-international-disability-equity-and-rights-strategy-advancing-equity-transform-lives>

National

Disability Discrimination Act (DDA) 1992

The DDA is a national law imposing obligations not to discriminate against people with disability. Discrimination happens when people with disability are **treated less fairly** than people without. The DDA covers a range of life areas including education, employment, access to public premises, provision of goods and services, accommodation, access to Government programs, sports, and other activities.

Many people are not aware that that their condition, illness or injury may be considered a disability under anti-discrimination legislation. The DDA uses a very broad definition of disability encompassing physical, sensory, mental, and intellectual disability.

Find out more:

- <https://humanrights.gov.au/our-work/disability-rights/brief-guide-disability-discrimination-act>
- <https://www.legislation.gov.au/Details/C2022C00367>

Disability Services and Inclusion Act 2023

This Act strengthens Australia's commitment to accessibility, inclusion, and equal opportunity for people with disability. It replaces the Disability Services Act 1986 and came into effect on the 1 January 2024. It strengthens Australia's commitment to accessibility, participation, and equal opportunity for people with disability. The Act empowers people with disability by ensuring access to quality, inclusive supports across key areas such as accessibility, advocacy, accommodation, education, employment, community inclusion, independent living, carers, counselling, recreation, respite, information, capacity building, and research. It also ensures stronger safeguards, accountability, and alignment with Australia's obligations under the UN Convention on the Rights of Persons with Disabilities (CRPD).

Find out more:

- <https://www.health.gov.au/topics/disability-and-carers/empowering/dsi-act>

NDIS Quality and Safeguards Commission

The NDIS Quality and Safeguards Commission is an independent agency that regulates NDIS funded services and supports to ensure they are safe, respectful, and uphold the rights and dignity of people with disability. It provides a place for participants and others a clear pathway to raise complaints or concerns about NDIS services and it has powers to investigate serious incidents, including abuse, neglect, and exploitation. The Commission helps create a system where people with disability have confidence in the services they receive and can exercise choice and control in their lives.

Find out more:

- <https://www.ndiscommission.gov.au>



New South Wales

NSW Disability Inclusion Act 2014

The NSW Disability Inclusion Act 2014 recognises that people with disability have the same human rights as everyone else and that the State and the community have responsibilities to support those rights.

It requires the development of a State Disability Inclusion Plan to support the inclusion of people with disability in the community and improve access to mainstream services and facilities, support them to pursue their goals and provide safeguards around supports and services.

Find out more:

- <https://www.dcj.nsw.gov.au/community-inclusion/disability-and-inclusion/disability-inclusion-act-for-people-with-disability.html>
- <https://legislation.nsw.gov.au/view/whole/html/inforce/current/act-2014-041>





Disability rights in education

Disability Standards for Education

The Disability Standards for Education are National Standards which provide students and prospective students with disability the right to education and training opportunities **on the same basis** as students without disability. This includes the right to access to services and facilities within education settings and the right to participate in education and training without discrimination.

The Disability Standards for Education apply to all public and private educational institutions including preschools, primary and secondary schools, and tertiary institutions such as TAFE, colleges, and universities.

The Standards detail that students with disability have the right to:

- apply to enrol in education facilities on the same basis as others
- access the curriculum, teaching materials and assessment and certification requirements for the course or program in accessible ways
- participate in all learning activities, with adjustments if needed
- use support services to assist their participation in education
- have teaching strategies adjusted to meet their learning needs and address any disadvantage in the student's learning that results from his or her disability. This includes the provision of additional support or the development of disability-specific skills.
- have assessment procedures adapted to enable the student to demonstrate the knowledge, skills or competencies being assessed in accessible ways

Education providers have the obligation to consult with students with disability about accommodations they may need, to provide reasonable adjustments (unless those adjustments would cause the provider unjustifiable hardship), and to put steps in place to prevent people with disability being mistreated, harassed, or victimised. Students with disability still need to demonstrate that they can meet the inherent requirements of the course.

Find out more:

- <https://humanrights.gov.au/our-work/disability-rights/dda-guide-getting-education>
- <https://www.education.gov.au/disability-standards-education-2005/students>
- <https://www.legislation.gov.au/Details/F2005L00767>
- <https://www.education.gov.au/disability-standards-education-2005/resources/explaining-disability-standards-education>



Adjustments for students with disability in schools

All education providers have obligations to provide reasonable adjustments to students with disability. They are responsible for providing adjustments to students with a disability in relation to accessing the curriculum, assessment tasks and in-school tests. This includes school-based assessment tasks in years 11 and 12. Reasonable adjustments for HSC examinations are determined through a different process by the NSW Education Standards Authority (NESA – see below).

Adjustments enable a student with disability to access the curriculum outcomes and content on the same basis as their peers. They are intended to provide **equitable opportunities** for students with disability rather than give an advantage. The types of adjustments made will vary according to the disability-related needs of the individual student.

Examples of adjustments may include:

- modifications to the educational environment to improve access
- provision of equipment, eg speech to text software
- providing learning materials in different formats, eg electronically, in large text, in plain English, with additional visuals or scaffolding etc
- adjustments to the assessment process, eg
 - extra time in an examination
 - a separate room to complete an examination
 - more time to complete a take-home task, including checkpoints for progress
 - rescheduled task or an extended time to complete
 - scaffolded instructions
 - the use of a reader and/or scribe or specific technology
 - accessibility, eg providing a reading stimulus at the appropriate reading level for the student
 - highlighted key words and phrases
 - more information, eg providing a wordbank, a labelled diagram or a visual cue
- adjustments to the assessment activities, eg
 - questions rephrased
 - simplified language
 - alternative formats for questions, eg short responses instead of extended responses
 - visual task instead of a reading task
 - setting an alternate task, eg submitting a presentation filmed at home, rather than presenting in front of the class
 - the use of other assessment tasks completed to determine achievement of outcomes



- alternative formats for responses, eg
 - use of assistive technology to complete assessment tasks
 - written point form or notes instead of an extended response
 - scaffolded structured responses for an extended response
 - responses to short objective questions to build towards an extended response
 - oral responses instead of written responses
 - matrix or labelled diagram instead of a written response
 - multimedia presentations instead of an oral response.



Find out more about disability supports in schools:

- Public Schools - <https://education.nsw.gov.au/schooling/parents-and-carers/inclusive-learning-support>
- Independent Schools - <https://www.aisnsw.edu.au/teachers-and-staff/supporting-students/students-with-disability>
- Catholic Schools - <https://www.csnsw.catholic.edu.au/disability-learning/>
 - Wollongong Diocese - <https://www.dow.catholic.edu.au/student-experience/diverse-learning>
 - Sydney Diocese - <https://sydcatholicschools.nsw.edu.au/education/learner-diversity>

Adjustments for the Higher School Certificate (HSC) in NSW

- Unlike reasonable adjustments for school-based assessments, adjustments for the actual HSC examinations must be granted through a formal application to the NSW Education Standards Authority (NESA).
- The application must be submitted by the school and include evidence of the disability and its impacts. Applications need to be submitted by the end of Term One of the HSC year.
- Find out more:
 - <https://educationstandards.nsw.edu.au/wps/portal/nesa/11-12/hsc/disability-provisions>



Practical Tools for families seeking disability adjustments and supports in education settings

Disability Standards for Education in Practice: Action Plan

Designed by students with disability and their parents and caregivers, with help from Children and Young People with Disability Australia (CYDA), this workbook provides a series of steps and activities that will take you through how to get accommodations to help you learn. You can use these steps in a school, university, or vocational education and training (VET) institution (e.g. TAFE).

<https://www.education.gov.au/en-x-er/disability-standards-education-2005/students/english/dse-in-practice>



Our Right to Learn and Play

Is a resource for Aboriginal and Torres Strait Islander school students with disability and their families. It talks about students' rights and what schools must do to support all students to join in and learn.

<https://www.education.gov.au/disability-standards-education-2005/resources/our-right-learn-and-play>



Getting Started

Is a resource for culturally and linguistically diverse parents and caregivers of students with disability. It helps explain how to support your child with disability in the Australian education system.

<https://www.education.gov.au/disability-standards-education-2005/resources/getting-started>



How to Advocate

This resource helps school and tertiary students with disability to build self-advocacy skills and provides guidance on how to raise and resolve concerns with their education provider.

<https://www.education.gov.au/disability-standards-education-2005/resources/how-advocate>



Steps to Raise Concerns

This resource supports parents and caregivers of students with disability to raise, escalate and resolve concerns with their school.

<https://www.education.gov.au/disability-standards-education-2005/resources/steps-raise-concerns-and-resolve-complaint-your-school>



Practical Tools for families seeking disability adjustments and supports in education settings continued...

Respect at school

This resource is for students with disability, their parents and caregivers, and schools, to learn about respectful behaviour and why it is important to include students with disability in decision-making.

<https://www.education.gov.au/disability-standards-education-2005/resources/respect-school>



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.

<https://www.education.gov.au/disability-standards-education-2005/resources/advocating-your-child>



Advocating with and for your child: The Primary Years

This resource is for parents and caregivers of primary school students. It helps readers to plan and set up reasonable adjustments with and for their child. The resource was co-designed by students with disability and their parents and caregivers.



Working Together: Moving through secondary school

This resource supports students with disability and their parents and caregivers with the transition from primary to secondary school and post-school pathways.

<https://www.education.gov.au/disability-standards-education-2005/resources/working-together>

