



Australian Government
Department of Education and Training

**Australian Government Initial
Response to the
2015 Review of the Disability
Standards for Education**

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The document must be attributed as *Australian Government Initial Response to the 2015 Review of the Disability Standards for Education 2005*

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Introduction

A quality education for all people with disability is of a high priority across all levels of education. The Australian Government has put in place the Disability Standards for Education 2005 (the Standards) to ensure that students with disability can access and participate in education on the same basis as other students. The Standards explain the obligations of education and training providers towards students with disability, including schools, vocational education providers and universities. The Standards were formulated under the *Disability Discrimination Act 1992* and came into effect in August 2005.

Under the Standards, all education providers are required to make reasonable adjustments to assist students with disability to participate in education on the same basis as other students. The Minister for Education and Training, in consultation with the Attorney General, is required to undertake a review of the Standards every five years.

In 2015, the Australian Department of Education and Training engaged an independent consultant, Urbis, to conduct the 2015 Review of the Standards. This review focused on the effectiveness of the Standards in:

- supporting students with disability to access and participate in education on the same basis as other students
- raising awareness and eliminating discrimination against people with disability in education and training. It will also examine the progress made by education providers in implementing the Standards since the 2010 Review of the Standards.

The Minister of Education and Training, the Hon Christopher Pyne MP, was pleased that so many members of the public took part in this review, in particular the range of educators, students, parents and disability advocates. Hearing the voices of a wide array of stakeholders is critical and important in each review of the Standards.

The Australian Government believes in being transparent and upfront as to why this is an initial response to the 2015 Review. There are many valid recommendations, of which the Australian Government agrees to in principle. In principle means that there is merit in considering the recommendation further, which will require further time to consult with relevant key stakeholders. In addition, there is a Senate Enquiry for School Students with Disability underway. This inquiry will address a range of topics related to the education of students with disability in schools, such as recent initiatives provided, supports for improving educational outcomes and transition processes.

The Senate Education and Employment References Committee (the Senate) is expected to report by 15 January 2016. Prior to this date, the Australian Government Department of Education and Training will be formally reporting to the Senate. Further actions relating to the Disability Standards for Education 2005, may arise pending the recommendations made by the Senate, to which the Australian Government will be accountable for. It is envisaged that a formal and final Australian Government response to the 2015 Review could be provided at a later date to further reflect actions based on this review.

Through this review, the consultation confirms that the Standards remain an important and relevant piece of legislation in a wider policy landscape seeking to ensure students with disability are able to access and participate in education on the same basis as other students. It is important to note that the report indicates that awareness among educators and education providers is relatively high, and that the Standards continue to be a tool to advocate for the rights of students with disability.

Whilst there has been significant improvement in the accessibility and use of the Standards since 2010, it is evident that further effort and resources are still required in order to support the use, application and interpretation of the Standards in practice. The recommendations from the 2015 Review outline key areas for improvement across all levels of education to better improve knowledge of and implementation of the Standards. There are some aspects of the Standards which are less clear than others, and there is still a need to clarify certain areas of ambiguity.

The Standards were designed to clarify the rights of students with disability and obligations of education providers under the *Disability Discrimination Act 1992*. Whilst progress has been made since 2010 in educator awareness and understanding, further work is required to ensure that students, parents and carers are fully informed and aware of their rights.

The Final Report acknowledges that further clarity, awareness and resources are required around the Standards to support their use in regional, rural and remote areas, and by students of culturally and linguistically diverse backgrounds, and Indigenous students. The Australian Government is committed to providing better resources on the Standards as a result of the 2015 Review, so that all students with disability and their families can use this important resource. The process on how to go about this is described in page 12 of this document (titled 'Next Steps').

Focusing on improving learning outcomes and supporting **all** students throughout their learning experience is an important priority for the Australian Government. This is reflected through a variety of reforms and initiatives in schooling, vocational education and training and higher education.

The Australian Government recognises that there are some similar recommendations between the 2015 review and the 2010 review. These serve as a reminder of the public's views of the Standards, and key areas which still require consideration, such as compliance processes.

The Australian Government has been reassured through this review that there is significant correlation between reforms which have occurred since the 2010 Review, and their impacts on improving learning experiences for students with disability. There have been a number of positive advances since the 2010 review, including implementation of the More Support for Students with Disability (MSSD) initiative in 2012-2014, the Nationally Consistent Collection of Data on School Students with Disability (NCCD), and the development and delivery of high quality online resources for educators across all sectors and education settings. This met various recommendations from the 2010 Review in raising awareness of the Standards by educators to better meet individual needs.

Recommendations

Improving understanding and application of the Standards

Recommendation 1: That the Australian Government work with State and Territory governments and relevant peak bodies to produce consistent, accessible summaries of rights, obligations and complaints processes tailored to different education settings, and in a range of accessible formats and languages including, for example, languages other than English (including Indigenous languages), and Easy English. These resources should also:

- affirm the Standards' contribution to people with disability achieving their full potential in education contexts,
- affirm the desirability of inclusive education practices and the role of education in fostering social inclusion more generally,
- affirm that the Standards apply equally to the delivery of education programs and initiatives targeting socially disadvantaged groups, and
- affirm that the Standards apply to transition points into, between and out of education settings.

Response: Agree in principle

Recommendation 2: That the Australian Government work with State and Territory governments to ensure that an accessible summaries of rights, obligations and complaints processes is provided to all prospective students as part of enrolment processes in every education settings; published on every education institution's website; and is prominently displayed in education facilities.

Response: Agree in principle

Recommendation 3: That the Australian Government develop a range of exemplars of good practice which illustrate effective adjustments, including how decisions are made on what is 'reasonable'. The exemplars should be accessible to both education providers and to students with disability or their associates and serve to support development of a common language and understanding.

Response: Agree

Recommendation 4: That the Australian Government work with professional bodies for educators (and education administrators) to strengthen access to and uptake of substantive training in disability in pre-service and in-service training, to support the effective implementation of the Standards. This should include skills-based training focused on effective conversations in the context of the Standards' intent to engage and retain students with disabilities in education.

Response: Agree in principle

Recommendation 5: That the Australian Government, in conjunction with State and Territory governments and the sector develop guidance for education providers in relation to:

- the intersection of the Standards with privacy legislation (specifically in relation to engaging with associates of adult students),
- the intersection of the Standards with other major legislative and regulatory instruments relating to disability,
- the intersection of education providers' responsibilities under the Standards for provision of reasonable adjustments and support, and the responsibilities of the NDIA under the NDIS,
- the role of education providers in ensuring application of the Standards to education activities conducted outside the classroom (particularly industry placements/practicums), and
- the legality of excluding students from vocation-directed education on the basis that the prospective student may not be able to fulfil the inherent requirements of that vocation.

Response: Agree in principle

Australian Government Response

The Australian Government agrees in principle to recommendations 1 and 2. The Australian Government affirms that all students should be provided with an inclusive education, where all students are supported to learn, contribute and participate in all aspects of their education and learning environment.

All education institutions are encouraged to share the Standards with their students and communities. The Standards and accompanying resources are published on the Australian Government Department of Education and Training website, and we invite other education providers and disability stakeholders to hyperlink to this information. The Australian Government is currently unable to enforce that the Standards are shown on every education institution's website, but encourages education providers to prominently display the Standards in their facilities and to share this information with students. This relates not only to schools, but also vocational education and training and tertiary settings.

For students in vocational education and training, the Standards for Registered Training Organisations 2015, which came into effect on 1 April 2015, have strengthened requirements for the provision of information to learners by registered training organisations (RTOs). An RTO is required to provide or make readily available information to the learner that outlines the services available (including educational and support services), and the rights and obligations of the learner. This information may be provided to the student through one or more documents in print or electronic formats. The Australian Government encourages that this practice also occur in early learning and higher education settings.

For recommendation 3, the Australian Government agrees to the development of such resources and has funded the development of Exemplars of Practice. These exemplars will demonstrate how the Standards can be used across education settings (including early learning, schools, vocational and tertiary) to provide better outcomes for students with disability. These Exemplars will be available in late 2015 on the Department of Education and Training's website.

In response to recommendation 4, the Australian Institute for Teaching and School Leadership (AITSL) was established to provide national leadership for the Commonwealth, state and territory governments in promoting excellence in the profession of teaching and school leadership. AITSL has responsibility for professional standards, fostering and driving high quality professional development for teachers and school leaders.

AITSL works collaboratively across jurisdictions and engages with key professional bodies to support the implementation of the Australian Professional Standards for Teachers. Under the Professional Knowledge domain of the Australian Professional Standards for Teachers, standard 1 is to *Know Students and how they learn*. This applies also to teaching students with disability. The proficient level of this standard requires teachers to demonstrate that they can “Design and implement teaching activities that support the participation and learning of students with disability and address relevant policy and legislative requirements.” The implementation of the Nationally Consistent Collection of Data on School Students with Disability (NCCD) encourages the use of quality, differentiated teaching to support the learning needs of all students.

AITSL’s website provides examples of teaching practices in their Illustrations of Practice: www.aitsl.edu.au/australian-professional-standards-for-teachers/illustrations-of-practice. Professional development remains the responsibility of employers in states and territories.

The Teacher Education Ministerial Advisory Group (TEMAG) report, “Action Now: Classroom Ready Teachers” was released in February 2015. In response to this review, work being undertaken by AITSL to strengthen the Accreditation Standards with the aim to ensure that initial teacher education courses equip new teachers with skills to be successful in the classroom and to teach a diverse range of students including students with disability.

In response to recommendation 5, the Australian Government agrees that further work can be done on the intersection of education providers' responsibilities for provision of reasonable adjustments and support under the NDIS and the Standards. The Department of Social Services and the National Disability Insurance Agency (NDIA) have work underway to further support the NDIS and education provider responsibilities.

The Principles to determine the responsibilities of the NDIS and other mainstream service systems state that the NDIS will fund personalised supports related to a person’s support needs, unless those needs are the responsibility of another service system’s universal obligation or covered by reasonable adjustment as required under the *Disability Discrimination Act 1992* or similar legislation in jurisdictions. There are Applied Principles and Tables of Support specific to early childhood development (which includes pre-school education), school education, vocational education and training and higher education. The application of the Principles take into account the guidance provided by the Standards. The Applied Principles can be found on the COAG web site at www.coag.gov.au/node/497.

In addition, the NDIA has published Operational Guidelines on Supports in Participant Plans that interface with early childhood, school education, vocational education and training and higher education. These provide guidance on the intersection of education providers' responsibilities and the responsibilities of the NDIS. They are available on the NDIA web site at www.ndis.gov.au/about-us/operational-guidelines.

The Commonwealth, in conjunction with state and territory governments and the NDIA have recently reviewed the Applied Principles and Tables of Support to ensure that they support decisions to appropriately define supports as either the responsibility of mainstream services (including education) or the NDIS. The outcome of the review will be considered by COAG in October 2015.

During transition to full scheme of the NDIS, the Commonwealth will continue to work with state and territory governments and the NDIA to ensure that decisions on responsibilities for supports for NDIS participants are consistent with these principles.

The Australian Government will consider the range of issues covered in recommendation 5, and how this can be addressed through additional resources to support the Standards. It is noted that the Standards include reference to industry placements (part 6.3e of the Standards). Further attention to and awareness of responsibilities related to placements may be required through additional resources for school, vocational education and training and tertiary settings.

Improving compliance with the Standards

Recommendation 6: That the Australian Government develop nationally consistent tools to enable education institutions to conduct 'self-audits' of their compliance with the Standards.

Response: Agree in principle

Recommendation 9: That the Australian Government consult with State and Territory governments about the feasibility of coordinated collection and analysis of relevant complaints data at the national level (and potentially institution level), to improve transparency of system performance.

Response: Agree in principle

Recommendation 10: That the Australian Government explore the feasibility of a nationally consistent monitoring and accreditation model to strengthen proactive compliance with the Standards that would complement the present complaints-based compliance model.

Response: Agree in principle

Recommendation 11: That the Australian Government consider extending the application of the Standards to included childcare providers.

Response: Noted

Australian Government Response

The Australian Government recognises that there are difficulties in enforcing the Standards unless a complaint of unlawful disability discrimination is lodged with the Australian Human Rights Commission. Members of the public reported frustrations with this process in the 2010 Review, and this issue still remains. In order to improve compliance processes, the Australian Government believes that the 'self-audit' tools described in recommendation 6 would be useful for providers of all levels of education and ultimately benefit students with disability and learning difficulty. The development of such tools could assist education providers in assessing how well they consult with students and their families (when relevant) and how they address additional needs of the students, which may be impacted on by further factors (such as geographic location and cultural barriers). For schooling settings, the Australian Government will consult with education authorities to develop the self-audit tool. In vocational education and training, and tertiary settings, alternate methods will be used to develop such tools for their education providers.

For recommendation 9 the Australian Government agrees to explore the feasibility of alternative enforcement and compliance mechanisms. At present, there is a range of methods of making complaints through a range of bodies, from the school/education provider level, to education authorities (such as local department of education) and state/territory anti-discrimination boards.

For vocational education and training, the Australian Government launched the new National Training Complaints Hotline (the Hotline) on 20 January 2015. The Hotline is a joint initiative with state and territory governments and allows the public to raise concerns about the training sector. The Hotline directs complaints to the appropriate Commonwealth, state or territory organisation for assistance. The Hotline also allows the Australian Government Department of Education and Training to analyse complaint trends in order to quickly identify further action and improvements that are needed.

The Hotline will be independently reviewed during 2015. It is appropriate that the findings from the operations, and review, of the Hotline may contribute to Government considerations of recommendation 9 and to the application of complaints management and monitoring relating to non-compliance with the Standards at the national level for this sector.

With recommendation 10, the Australian Government understands the intent of establishing a nationally consistent monitoring and accreditation model to strengthen proactive compliance with the Standards. As this model has the potential to impact a large number of education providers, in consideration of the deregulation agenda of the Australian Government, it is not clear that the benefits would outweigh the cost of such additional reporting mechanism. However, the Australian Government sees that 'self-audit' tools could benefit education providers in a wide variety of contexts and therefore will explore the feasibility of appropriate compliance mechanisms.

With recommendation 11, the Australian Government will consider extending the application of the Standards to include childcare providers. In view of its role in overseeing the National Quality Agenda for Early Childhood Education and Care, the Australian Government will refer the recommendation to the Education Council for its consideration. The *Disability Discrimination Act 1992* currently makes it unlawful to discriminate in the provision of goods and services, including services provided by childcare providers.

Improving personalised supports for students with disability

Recommendation 7: That the Australian Government work with State and Territory governments to improve consultation practices with students or their associates, including development of policies or procedures on personalised planning for students with disability which outline the type of consultation required, the frequency of consultation and how consultations are to be documented.

Response: Agree in principle

Recommendation 8: That the Australian Government work with State and Territory governments to provide consistent guidance on best practice approaches to planning for personalised learning, including guidance on the use and content of individual learning plans (or equivalent) and the need for periodical review.

Response: Agree in principle

Recommendation 12: That the Australian Government work with states and territory statutory authorities responsible for curriculum and assessment and explore strategies to improve continuity and consistency of adjustments between classroom and assessment contexts.

Response: Agree in principle

Recommendation 13: That the Australian Government work with State and Territory governments to improve the consistency of funded supports for people with disabilities in different post-compulsory educational settings to ensure equitable access across settings.

Response: Not agreed

Recommendation 14: That the Australian Government work with public and private academic publishers to develop strategies to increase the availability of academic texts and other education resources in Create Once/Publish Everywhere (COPE) formats that allow ready adaptation to various accessible forms.

Response: Not agreed

Australian Government Response

In response to recommendations 7 and 8, the Australian Government has worked with state, territory and non-government representatives in schooling to produce the *Planning for Personalised Learning and Support* national resource, published in July 2015. This tool was developed to guide discussions on personalised learning with the student, their family or carer, school personnel, professionals and other relevant people. It is available at <http://www.education.gov.au/disability-standards-education>.

The Standards mandate consultation with the student and their family/carer. In the school system, education authorities and sectors have policies/processes around how consultation should occur, who can or should be involved, how it should be documented, and how frequently consultation should occur in order to revisit required adjustments. The Australian Government cannot enforce specific requirements around consultation, but encourages all education providers (including vocational education and tertiary providers) to use best practice processes when consulting with students/families, using the above resource as an example. The Standards do not state requirements of individual learning plans. Decisions on how to develop individual learning plans and the process of consultation lie with education providers and education authorities.

With recommendation 12, the Australian Government recognises that there have been difficulties experienced by students and families in achieving consistency of adjustments between classroom and assessment contexts. The Australian Government will work with states and territories to identify what can be done to reduce the impacts and burden placed on students and families when seeking special assessment provisions through assessment regulators.

For recommendation 13, the Australian Government notes that funding is provided across various areas (Federal, State and education provider-level). The Australian Government respects that this provides autonomy to states, territories and individual education providers on decisions around funding allocation, therefore consistency of funded supports is not achievable.

Students must be provided with reasonable adjustments and learning resources to enable full participation in their education, on the same basis as students without a disability as described in the Standards. This may include preferences of learning materials and access to assistive technology. If the learning resource is not suitable for the student, the teacher is required to identify a suitable alternative through consultation with the student. We encourage that students, families and education providers continue these discussions as the student progresses through their education journey, and prior to key transition periods.

In order to further support tertiary students with disability, the Australian Government's Higher Education Disability Support Programme provides funding that partially reimburses the cost of educational support services and/or equipment for domestic university students with disability. Although the Australian Government provides funding to universities for research, teaching and learning activities, universities are autonomous institutions. The Australian Government has limited capacity to intervene in universities' internal decisions regarding funding and the provision of supports. The Australian Government recognises that there are expert groups which exist to support practices around accessibility of resources for students. These expert

groups do not cover all levels of education. Whilst the necessity of accessible resources for all is valid, the Australian Government believes that for recommendation 14, the types of learning resources available (such as textbooks and journals) are at the discretion of Australian and international publishers. The availability of learning resources which are accessible to individual student learning needs is a matter for education authorities and individual education providers. It is highly important and extremely relevant to have set learning materials readily available to **all** students, in all education settings. Educators can prepare themselves by analysing the curriculum and learning content prior to the commencement of the term/semester, and discussing adjustments with the student as described in the Standards.

Next Steps

All Australian governments are committed to supporting an inclusive, high quality, education system that enables **all** students, including students with disability, to achieve quality education outcomes and to enable students to fulfil their potential.

It is evident that more work needs to be done in order to improve the implementation of Standards, such as clarifying where responsibilities lie (as described in recommendation one). Since the 2010 Review, a number of initiatives have helped to build the capacity of educators in addressing the needs of students with disability, however greater focus needs to be placed on building the use, application and interpretation of the Standards to better address the rights of students with disability in education. It is expected that even more progress and awareness of the Standards should occur over the next five years prior to the next review.

The needs of students with disabilities and their families will be further supported by the implementation of the National Disability Insurance Scheme (NDIS), which will bring further attention to supporting the rights of people with disability. At this time, there are many discussions occurring between education providers and the National Disability Insurance Agency (NDIA) in order to clarify where responsibilities lie in supporting students with disability in education contexts.

The Australian Government appreciates the commitment and cooperation of state and territory government authorities, and looks forward to future joint efforts and actions to support the use, implementation and awareness of the Standards. The Australian Government will be approaching Education Council for advice on collaborating with states and territories on all recommendations. For recommendations that impact on individual education providers (such as universities), the Australian Government will further consider how to engage with key stakeholders on these issues.

As stated earlier, the Senate Education and Employment References Committee (the Senate) has called for a Senate Enquiry for School Students with Disability. The Senate is expected to report by 15 January 2016. The Australian Government intends to provide a submission to, and participate in this enquiry. Further actions relating to the Disability Standards for Education 2005 may arise pending the recommendations made by the Senate.

The Australian Government wishes to thank all contributors and participants in this review. The views of all educators, families, advocates and people with disability are highly valued in this process. The Australian Government would also like to thank Urbis for undertaking the 2015 review, and for their robust efforts in delivering the Final Report to the 2015 Review of the Disability Standards for Education.