

# EXPOSURE DRAFT



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## Disability Standards for Education Amendment Standards 2025

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I, Mark Dreyfus KC, Attorney-General, make the following standards.

Dated 2025

Mark Dreyfus KC [DRAFT ONLY—NOT FOR SIGNATURE]  
Attorney-General

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## 1 Name

This instrument is the *Disability Standards for Education Amendment Standards 2025*.

## 2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	The day after the last day on which a resolution disallowing this instrument could be passed by either House of the Parliament under the <i>Legislation Act 2003</i> .	

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

## 3 Authority

This instrument is made under subsection 31(1) of the *Disability Discrimination Act 1992*.

## 4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

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Schedule 1 Amendments about providers

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## Schedule 1—Amendments about providers

### *Disability Standards for Education 2005*

#### **1 Introduction (paragraph beginning “The Act”)**

Repeal the paragraph, substitute:

The Act seeks to eliminate, as far as possible, discrimination against people with disabilities. Under section 22 of the Act, it is unlawful for an educational authority to discriminate against a person on the ground of the person’s disability. Under section 24 of the Act, it is unlawful for a service provider to discriminate against a person on the ground of the person’s disability, such as by refusing to provide services, or in the terms or conditions on which, or the manner in which, the services are provided. Section 31 of the Act enables the Attorney-General to formulate disability standards in relation to a range of areas, including the education of, or the provision of educational early childhood services to, persons with a disability.

#### **2 Introduction**

After “legal obligations in relation to education”, insert “and educational early childhood services”.

#### **3 Introduction (paragraph beginning “The Standards are accompanied”)**

Repeal the paragraph, substitute:

Section 1.5 provides that these Standards also apply in the same way to educational early childhood service providers and the children enrolled in, or seeking enrolment in, educational early childhood services.

*Note* Supporting documents that may assist in the interpretation of these Standards could in 2025 be viewed on the Commonwealth Department of Education’s website (<https://www.education.gov.au/disability-standards-education-2005>).

#### **4 After section 1.2**

Insert:

##### **1.2A Authority**

These Standards are made under subsection 31(1) of the Act in relation to areas, referred to in sections 22 and 24 of the Act, in which it is unlawful under Part 2 of the Act for a person to discriminate against another person on the ground of a disability of the other person.

#### **5 Paragraphs 1.3(a) and (b)**

Omit “area of education and training”, substitute “areas of education, training and the provision of educational early childhood services”.

#### **6 Section 1.3 (note)**

After “in relation to education”, insert “and the provision of services”.

## 7 Section 1.4

Insert:

*educational early childhood service* has the meaning given by subsection 2.1A(1).

*educational early childhood service provider* has the meaning given by subsection 2.1A(2).

## 8 Section 1.5

Before “These Standards”, insert “(1)”.

## 9 Section 1.5 (before note 1)

Insert:

- (2) Subject to section 12 of the Act, these Standards:
  - (a) apply to educational early childhood service providers in the same way as they apply to educational institutions, educational authorities and education providers; and
  - (b) apply to children enrolled in educational early childhood services in the same way as they apply to students enrolled in educational institutions; and
  - (c) apply to children seeking admission to, or applying for enrolment in, educational early childhood services (including where an associate of the child seeks the admission or applies for the enrolment) in the same way as they apply to prospective students of educational institutions.
- (3) To avoid doubt, these Standards may apply to a person under both subsections (1) and (2).

## 10 Section 1.5 (note 1)

Omit “Education providers”, substitute “Providers”.

## 11 Section 1.5 (paragraph (a) of note 1)

Repeal the paragraph, substitute:

- (a) preschools, including kindergartens;
- (aa) providers of other educational early childhood services (see section 2.1A for the definition of *educational early childhood service provider*);

## 12 Section 1.5 (note 2)

After “curricula,”, insert “learning frameworks,”.

## 13 After section 2.1

Insert:

### 2.1A Educational early childhood service providers and educational early childhood services

- (1) For these Standards, an *educational early childhood service* is any of the following services:
  - (a) an approved child care service (as defined in section 194G of the *A New Tax System (Family Assistance) (Administration) Act 1999*);

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## Schedule 1 Amendments about providers

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- (b) a service that is approved under a law of a State or a Territory to provide child care or a preschool program, and is legally required to provide children enrolled in the service with an educational program that is based on a learning framework approved by one or more of the following:
    - (i) the Ministerial Council (within the meaning of the Education and Care Services National Law set out in the Schedule to the *Education and Care Services National Law Act 2010* (Vic.));
    - (ii) the Commonwealth, or an official or authority of the Commonwealth;
    - (iii) a State or Territory, or an official or authority of a State or Territory;
  - (c) a service of developing or accrediting curricula, learning frameworks or training courses used by educational early childhood service providers.
- (2) For these Standards, an *educational early childhood service provider* is:
- (a) a person who provides an educational early childhood service; or
  - (b) if a body other than a person provides an educational early childhood service—the persons who constitute the body.

### 14 Section 9.1

Omit “For section 34”, substitute “(1) For the purposes of section 34”.

### 15 At the end of section 9.1 (after the note)

Add:

- (2) For the purposes of section 34 of the Act, an action that contravenes the provisions of section 24 of the Act in relation to a person who has an associate with a disability is not an action in accordance with these Standards.



## **Schedule 2—Miscellaneous amendments**

### *Disability Standards for Education 2005*

#### **1 Introduction**

Omit “Human Rights and Equal Opportunity Commission”, substitute “Australian Human Rights Commission”.

#### **2 Paragraph 3.3(a)**

Omit “his or her”, substitute “the”.

#### **3 Subsection 3.7(2)**

Omit “his or her”, substitute “the student’s”.

#### **4 Section 4.3**

Omit “his or her” (wherever occurring), substitute “the student’s”.

#### **5 Paragraph 5.3(d)**

Omit “him or her”, substitute “the student”.

#### **6 Subsection 6.2(1)**

Repeal the subsection, substitute:

- (1) The education provider must take reasonable steps to ensure that the course or program is designed in such a way that:
  - (a) a student with a disability who is undertaking the course or program; or
  - (b) a student with a disability whom the provider has a reasonable expectation may undertake the course or program;is able to participate in the learning experiences (including the assessment and certification requirements) of the course or program, and any relevant supplementary course or program, on the same basis as a student without a disability, and without experiencing discrimination.

#### **7 Subsection 6.2(2)**

Omit “If a student”, substitute “If a student with a disability”.

#### **8 Section 6.3**

Omit “enable the student” (first occurring), substitute “enable a student with a disability that is undertaking the course or program”.

#### **9 Paragraph 6.3(a)**

Omit “him or her”, substitute “the student”.

#### **10 Paragraph 6.3(d)**

Omit “his or her”, substitute “the”.

#### **11 Subsections 7.2(2) and (3)**

Omit “he or she”, substitute “the student”.

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## Schedule 2 Miscellaneous amendments

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### **12 Paragraph 7.2(6)(b)**

Omit “he or she”, substitute “the student”.

### **13 Section 7.3**

Omit “his or her”, substitute “the student has”.

### **14 Section 8.1 (note)**

Omit “sections 37 and 38”, substitute “section 37”.

### **15 Section 8.4**

Omit “38” (first occurring), substitute “39”.

### **16 Section 8.4 (note)**

Omit “Section 38 of the Act makes it unlawful for a member of staff of an educational institution to harass a student or prospective student who has an associate with a disability.”, substitute “Section 39 of the Act makes it unlawful for an educational early childhood service provider to harass a child with a disability who is seeking enrolment in the educational early childhood service.”.

### **17 Section 11.1**

Omit “Minister for Education, Science and Training”, substitute “Minister for Education”.