



One voice for every  
child in public education



AUSTRALIAN COUNCIL OF STATE SCHOOL ORGANISATIONS LTD

# 2020 Review of Disability Standards for Education 2005

Submission

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September 2020

Please indicate your name if an individual, or your organisation name if you are responding on behalf of an organisation

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Which of the following options best describes you/the organisation making a submission?

The Australian Council of State School Organisations is a peak community organisation and *the one voice for every child in public education*

Do you wish your submission to be treated as confidential?

No

AUSTRALIAN COUNCIL OF STATE SCHOOL ORGANISATIONS  
SUBMISSION TO THE 2020 REVIEW  
OF THE  
DISABILITY STANDARDS FOR EDUCATION 2005  
**EXECUTIVE SUMMARY**

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Ensuring that students with disability have inclusive and productive educational experiences is presenting challenges for Australian education systems. Schools are struggling to value diversity and difference and turn difference into a tool for improving the quality of teaching and learning.

Like other areas of social policy, there are aspects of the effective education of students with disability where a definitive view regarding leading practice is yet to emerge. However, in the majority of cases, the prevailing evidence provides a basis for identifying the features of a good system that support students with disability to engage with education in a way that enables them to improve themselves through studying, training, and practice, to reach the limit of their ability to develop aptitudes and skills enabling them to lead a happy and fulfilled life.

Effectively responding to the challenges and opportunities of student differences – and ensuring that Australia’s education systems and practices, support all students engaging with education in a manner that allows them to become the best they can be – requires all schools to support and improve:

- Access, opportunity, and participation.
- Knowledge, awareness, and practice
- Understanding, acceptance, and advocacy.

It is ACSSO’s position and recommendation that:

- Families
  - have the right to enrol their children at their local school with the aim of placing them in the least restrictive and most advantageous environment. This choice must be based on having been given full information about available options.
  - have the right to be equal and informed partners in decisions about additional educational requirements and resourcing to support the inclusion process, and to be involved at all stages on an equal and informed basis in decisions about curriculum planning, and adjustments and evaluation when enrolling students or determining individual education plans
- Professional development in Special Education pedagogy and practice should be a requirement for all mainstream teachers and supporting paraprofessionals. Plus, appropriate ongoing professional development should also be available to-
  - Teachers and supporting paraprofessionals, appointed to or in positions with responsibility for students with additional needs and for Teachers whose teaching responsibilities change, to include students with a physical, intellectual, or social disability.

ACSSO believes there is a need:

- to develop a system which records known breaches of disability education standards and informs the Department of Education, Skills and Employment of these breaches. There should be a mandatory requirement that action be taken to address identified systemic issues of concern.
- to establish a national website and associated telephone service, which is independent of educational authorities, which provides information on the Standards, and school options for students with disability.
- To amend the *Disability Standards 2005* to reflect human rights and contemporary evidence on inclusive education, including by ensuring they:
  - Explicitly recognise and promote the right of students with disability to an inclusive education, including when determining whether an adjustment is 'reasonable'.
  - Explicitly outline what is meant by an education provider's obligation to make reasonable adjustments to assist a student with disability to participate in education on the same basis as students without disability.
  - Define the term 'consult,' and provide direction as to when it should occur.
  - Require education providers to ensure all students with disability have an appropriate and up-to-date individual education plan.
  - Reflect the additional barriers and intersectional discrimination faced by students with disability from communities experiencing marginalisation.
  - Refer to the United Nations Convention on the Rights of Persons with Disabilities and Convention on the Rights of the Child.
- Strengthen mechanisms for accountability and enforcement of the Standards, including through:
  - Introducing compulsory, comprehensive, and ongoing teacher education for inclusion in pre-service and in-service professional development for educators and paraprofessionals.
  - Obligations for education providers to supply and explain in accessible language a copy of the Standards developed in collaboration with ACSSO and CYDA to every student or their family/caregiver upon enrolment
  - Outcomes reporting and measurement
  - Alignment with the new National Disability Strategy and the development of a new National Action Plan for Inclusive Education.

# AUSTRALIAN COUNCIL OF STATE SCHOOL ORGANISATIONS

## SUBMISSION TO THE 2020 REVIEW

### OF THE DISABILITY STANDARDS FOR EDUCATION 2005

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The Australian Council of State School Organisations (ACSSO) *is the one voice for every child in public education in Australia*. ACSSO represents the voice of families and communities of more than 2.54 million young people in schools across our nation. We also advocate for and support families with children in early childhood setting and young Australians accessing post compulsory education.

As an organisation, ACSSO welcomes the opportunity to make a submission to the 2020 Review of Disability Standards for Education 2005.

ACSSO is committed to access of opportunity and equity of outcomes for all students engaged in education at any level.

ACSSO believes that all people have equal and inalienable rights of human dignity and freedom and rights to access education and training to enable development of their abilities to become the best one can be. Education is a key issue for children and young people with additional needs and it is the right of every child with a physical, intellectual or social disability, to the education, treatment and care required by their health needs, and to attend the educational setting of their choice.

In putting together these comments ACSSO acknowledges the essential need to ensure the direct experience of students and families informs the reform process and has utilised all networks relevant to this discussion.

The primary purpose of the Standards is to make more explicit the obligations of education and training service providers under the Disability Discrimination Act and the rights of people with disabilities in relation to education and training.

The Standards were last reviewed in 2015 and we acknowledge the establishment of the National Consistent Collection of data portal and applaud the website for information and professional learning. However, we are aware, there continues to be gaps in the general awareness and understanding of their operation and effect by both parents and educators. The information is not widely publicised and not easily accessible by all. Educators in leading positions to support students with additional needs will use this site as a means of funding however the fantastic resources and additional webinars are not widely known by classroom teachers.

ACSSO continues to believe, with the exception of the resourcing on the Safe Schools Hub, which has supported educators immensely, there has been little change in awareness and access for families.

It is still relevant to report that:

- General awareness not only of parents and families with additional needs but all families about the standards is low across the community, including within schools, universities, and other education sectors. Some families, particularly with the rise in childhood anxiety are totally unaware of the standards.
- Definition of concepts such as ‘reasonable adjustment’, ‘unjustifiable hardship’, should be made clearer. From our conversations with families and many educators, the application of these terms in practice varies widely.
- It is difficult for many marginalised families to obtain advice and support with advocacy about the Standards.
- The complaints process is complex and quite daunting for both families and students – the complaints process if less complex would provide information about challenges and opportunities to improve service delivery. The lessons learnt from complaints can feed into that process.
- Reports indicate that there are few consequences for education providers that breach the Standards or and there is not an appeals process where they fail to act on complaints.
- In the whole priority of funding, scarcity of human and physical resources for individual support for students across all sectors makes it impossible for the Standards to be implemented effectively.

## ACCESS AND PARTICIPATION

The anecdotal information provided by families is that it often takes longer to enrol a student with an identified disability in a school. The documents or information, required to be produced before the enrolment is accepted, is requested under the guise of providing adequate and appropriate support for the student. Even after the relevant documents are provided, the necessary support does not always occur. We have anecdotal evidence to indicate that it is “too difficult” to meet the needs and that alternate placement is suggested. In the case of mobility issues some suggestions mean that the child feels “singled out” from their peers to a point where they would prefer to “cope” rather than take the support (examples at end)

There are additional difficulties if the student requires a physical alteration to the educational setting or if there is the need for additional resources. In relation to the physical changes to schools, be that provision of a ramp, auditory support, a lift, a hoist or unisex toilets for students who identify as binary, non-gender specific, some states have a library of resources but the documentation required to access a resource and the time taken between the application and the provision of the resource can often be extensive. The administration requirements for student ability to access is extensive and often repetitive.

In some cases, provision of resources may be dependent upon a report/ document from an external agency (in particular medical documents) and this takes time and money and can lead to anxiety in both the student and family.

Rural, regional, and especially remote areas can experience significant delays in access to support and diagnosis – this is also complicated with the cost involved in identification, and ongoing services. The access to the medical service is particularly restricted in some regional and rural areas although even metropolitan residents have indicated the waiting lists are still high for access to some services, despite the introduction of the National Disability Insurance Scheme (NDIS), which means it can be months between the identification of a need for a child with a disability, the provision of relevant documentation and then access to the needed resource. The Standards have supported the decision by many families to enrol their children in mainstream educational settings to ensure that their child has a range of academic and social experiences which may have previously been restricted to them. There is now an increased need for adjustments/ accommodations to curriculum to enable students to access it.

*ACSSO believes that families:*

- *have the right to enrol their children at their local school with the aim of placing them in the least restrictive and most advantageous environment. This choice must be based on having been given full information about available options.*
- *have the right to be equal and informed partners in decisions about additional educational requirements to support the inclusion process, and to be involved at all stages on an equal and informed basis in decisions about curriculum planning and evaluation when enrolling students or determining individual education plans.*

Schools must provide the adjustments necessary to enable the student to participate.

The attendance of students with moderate to severe disabilities in mainstream settings has raised the awareness of other students in those settings. The level of integration of students with disabilities allows every student (able bodied and those with a confirmed disability) the opportunity to interact with someone who is different than themselves.

However, whilst it has added to a greater awareness to students and mainstream teachers there has been considerable reports of victimisation, bullying and harassment. This sadly is not just a student to student issue.

Most mainstream teachers had little pre-service experience in working with students where adjustments are needed. There are occasions where less experienced teachers, particularly if they are casuals; unfamiliar with the student's individual education plan, including any behaviour plan. Identifying of students who may need adjustment but not yet targeted can be overlooked by the inexperienced eye.

The increasing recognition of mental health issues, particularly resultant of COVID 19 and the impact upon the lives of students is an example of a disability that is often not visible in the same way as some other confirmed disabilities. This can result in the same restriction to allowing students access to the curriculum.

There has been an increasing number of students reported as having a mental health issue, particularly depression and anxiety. The 2019 Australian Principal's Association (APPA) survey of principals has identified this as being a growing issue. Discussions with APPA and other key groups including ACSSO are currently in progress to provide recommendations and possible resource development - including identification and support.

School settings need to continue to provide professional learning opportunities for their staff around mental health to allow them to recognise and provide improved support to their students.



## *KNOWLEDGE AND AWARENESS*

There appears to be a range of levels of knowledge of where a child with disabilities rights is covered. Although families know that a child has the right to access an education regardless of their disability, they are often not conversant with the Standards as a document. The families are also not necessarily aware of the extent to which they can push for the right to have their child enrolled in a school setting without the often extended time schools demand to determine how they will provide support for the child. There are anecdotal comments regarding the weeks it sometimes takes for a family between the time they officially enrol the child and the date the child actually commences at the school.

Just as there is pressure on families to provide the necessary documents to support their request for educational funding/ support for their child, schools are aware of their need to enrol a child in their facilities with the most appropriate support option. Schools are less likely today to deny a child an enrolment and appear to work more with the family and with educational consultants to provide the optimum support within the ability of their school.

There appears to be more consultation between schools and external agencies to identify and support the needs of the child with a disability. This is recognition of the role that many agencies will play in the life of the child and in their role of supporting the family to identify and provide appropriate resources to extend the child's educational access.

Educational authorities have worked to develop and review processes that allow identification of the need to provide physical changes to schools to allow students access to school facilities. They commence the work earlier these days especially where a student is transitioning from one setting to another. There is more consultation with families and with external agencies to identify the necessary alteration to school structures. Engaging with families is key.

Educational authorities are more flexible in their provision of resources. There is recognition of the ongoing research around best practice to support students with a disability and the need to acknowledge the resources/ services changes as well.

Many authorities are providing documents to families to explain the services they have available and how to access them. In these documents they are identifying the role of the school setting but also the link between home and school as a positive relationship to provide the best outcome for the student.

No matter how clear a process may be, the success of it is dependent upon the actions and knowledge of those individuals who are working with it. There do not appear to be adequate examples of what is meant by the term 'reasonable adjustment'. This needs to be expanded with clear examples. What is reasonable – is it dependent on the student's needs or the school's resources?

Although there is an awareness of the existence of the Standards, there is limited understanding of what they actually say. Dissemination of the information which describes and explains these Standards as well as access to them when required would be beneficial for those working with them. These Standards should be available on the website of the Education Departments of each state. They should also be available on the website of each school within the state.

However, the existence of a set of Standards as a document does not mean that attitudes and experiences will be altered. Addressing the issue of discrimination, harassment or victimisation requires an ongoing educational program of acceptance and recognition of the extent of all types of confirmed disabilities in society.

There seem to be some improvement in raising awareness and increased understanding of the issues affecting people with disabilities. Some of this comes from early identification of confirmed disabilities in children and the improved access to early intervention services. There is also improved and ongoing research which has supported the need for awareness raising to provide the most appropriate support.

Despite the ongoing attempts to encourage people to identify and seek support for their learning needs based on confirmed disabilities, there remains a level of stigmatisation which discourages individuals from identifying their needs. The younger the student, the more likely the family will be to seek support but as a student matures, the less likely they are to seek assistance. Part of this is a social/ peer relationship issue but there are also examples of students who have negative experiences upon which to base their decision.

There is a need to raise awareness that the standards include learning disabilities. Parents should also know that if a teacher in their professional opinion has assessed a child as having learning disabilities that child is then covered under the standard and is eligible for immediate and appropriate levels of educational support, until proven otherwise.

Members have informed us on how this does not happen in reality, in that families are told to wait until a formal assessment/diagnosis is made (sometimes 6-12 months), or having to wait until funding becomes available, or service transition is implemented/occurs.

Not all parents are aware that Government funded education providers do not have the right to withhold support from a child or deny a place to the child as it is in contravention of the standards and given they are a public provider of service - are then open/liable to action through the discrimination act.

## *UNDERSTANDING AND ADVOCACY*

The Standards have supported the decision by many families to enrol their children in mainstream educational settings to ensure that their child has a range of academic and social experiences which may have previously been restricted to them. There are now more opportunities for adjustments/ accommodations to curriculum to enable students to access it. Educational facilities are required to recognise and address any services which are restrictive in nature including physical environment. The range of confirmed disabilities is constantly changing and there needs to be a constant review of the processes to ensure all levels of need are adequately catered for in educational settings.

There appears to be an increased acknowledgement of the need to educate students and staff on disabilities, their extent, and the impact of specific disabilities on students and their access to the curriculum. There are more training opportunities for staff and particularly when a staff member has a student with a confirmed disability identified as being in their class the following year. This proactive approach to increasing staff knowledge is intended to allow for accommodations to the class program to address the student's needs.

The increasing incidence of identified mental health issues in the student body has resulted in the inclusion of programs in the curriculum to further educate students in this area. It is hoped this will assist in removing the stigmatisation of mental health problems, allowing students to seek assistance when required.

## *FUTURE IMPROVEMENTS*

Disabilities recognised by physical symptoms or visual indications are obvious but there are increasing cases of acknowledgement of disabilities which have limited external indications that a person has a confirmed disability. Schools need to ensure that students with medical cases such as heart/ liver/ kidney problems, cancer, diabetes, some genetic disorders and mental health problems are recognised and not discriminated against by the expectation that their support needs are not as high as other students with confirmed, more 'well known' disabilities (Down Syndrome, cerebral palsy, spina bifida, moderate and severe intellectual disabilities, vision and hearing problems)

We note that in many preservice training intuitions there is a need to include disability education as a core topic, not as an elective. It also needs to be strengthened in the National Teaching Standard.

We understand that there are several jurisdictions to which training in special education is not a prerequisite for teaching special education classes.

ACSSO's position is clear:

- *In-service Education (as professional development) in Special Education teaching strategies should be available to all mainstream teachers.*
- *Appropriate ongoing professional development should also be available to-*
  - *Teachers appointed to positions with responsibility for Special Education students.*
  - *Teachers whose teaching responsibilities change, to include students with a physical, intellectual, or social disability.*

We continue to advocate for additional time and funding for teachers in regard special education – both specialist and mainstream classes. It is our belief that disability/special needs should be embedded in the way people think - through increased awareness, specialist training much the same way that OH&S issues are generally understood by people and accepted.

*We believe that early education programs must begin as soon as a disability is identified, and these should be a continuum of suitable programs throughout the school life of that child. Funding must be provided to develop and implement programs which facilitate the early recognition of all disabilities and the development of appropriate learning programs.*

It is difficult to determine what level of childcare service is covered by the Standards. While Pre-schools are mentioned, there are increasing numbers of children who are accessing childcare services. It is obviously very important to ensure that this sector is adequately covered under the Standards as some families may use it as a short-term respite service and would like to be assured of the same level of acknowledgement of the requirement to support their child's needs.

There appears to be an absence in the current guidelines for importance of early intervention/assessment process. There also needs to be a greater emphasis on the importance of early learning/child care centres being acknowledged in the standards as there is currently very little support for parents of the very young special needs children in being able to place them in day facilities that support their needs – there is also very little awareness of and accessibility to many parents of the standards.

ACSSO believes there is a need:

- *to develop a system which records known breaches of disability education standards and informs the Department of Education, Skills and Employment of these breaches. There should be a mandatory requirement that action be taken to address identified systemic issues of concern.*
- *to establish a national website and associated telephone service, which is independent of educational authorities, which provides information on the Standards, and school options for students with disability.*

## *OTHER COMMENTS*

Government failure to provide sufficient resources to government school systems can be seen as critical in the responsiveness of departments, schools and thence teachers to the needs of those with significant special needs.

We are also aware of a significant group in the population who because of socio- economic circumstances do not get the disability identified. Resources and needs on the ground are just so great that need remains unidentified and unaddressed. We are concerned that there is potential for the disabilities funding and resourcing in so far as it is available, flows to those who have greater political power.

Common discussion across Australia centred on the burden/onus being upon the disabled person or family to prove a breach of the standards rather than the standards providing a level of evaluation/monitoring that prevents breaches in the first place. There appears to be a double disabling nature of a system that requires the disabled person/family to be capable of negotiating it successfully rather than the system being enabling to its users.

It could be expressed that these standards are designed to tick all the boxes for users' needs rather than being focused strongly upon protecting the rights of the disabled person.

- Schools appear aware of the standards but have not really read them. They have limited idea of the background, and advocacy groups see a gap between knowledge of the Standards and their application in the school setting.
- An improved educative process is needed around the Standards including providing examples to flesh out concepts. People are aware of the need to make adjustments but may need enhanced information on examples of adjustments.
- There is inconsistency across states which makes it difficult for students who move between states due to parental employment requirements (such as in the defence forces). There is little portability of funding between states including the national autism program.
- Zoning in some places has restricted the access of students to schools with specialist knowledge who are empathic to student needs. This can leave them feeling ostracized.
- It is difficult to identify some disabilities especially where 'low support needs' disabilities exist but a student may have multiple identified difficulties i.e. language/ communication problems, fine and gross motor skills difficulties, learning difficulties, minor medical problems. The combination of these needs can impact significantly on the student's ability to access the curriculum.
- Parental trauma around the need to continually 'tell their story' especially when they move states or even schools.
- Early childhood facilities often have limited visible students with disabilities as those students with support needs are directed to specialist facilities which provide specialist personnel (OT/ Speech Therapists/physiotherapists). There is little integration and therefore few opportunities for students to interact with each other or for staff to learn how to support these students with a disability in a mainstream childcare facility.
- Transition phases are always a problem although Primary schools appear to support these students better than High School staff. This process needs to be looked at further.

- Whilst ACARA has made excellent progress around Curriculum, within the implementation arena it is structured for students with no disabilities. Indications are that it is still particularly difficult for students with intellectual disabilities to access the curriculum.
- Parental input through review processes is not particularly good. They do not always appear to happen and again are more likely to occur in the Primary setting.
- Access to specialist services for identification or ongoing support is often difficult in some areas although different states have different systems.
- There needs to be a process of accountability for educational providers in relation to the standards. They appear to exist in a vacuum with little linkage to outcomes.
- Can a list of accommodations be produced and distributed to schools/ staff/ parents/ community?
- Professional development of staff is necessary at the pre-teaching level through to ongoing professional learning opportunities.
- What are the options for small/ rural/ regional schools?
- Education of the school community including students around disabilities and the Standards. Peer bullying is an issue so this may need to be linked to any bullying strategies.
- What is the process if the Standards are not met? States all appear to differ in their grievance procedures so does there need to be some consistent process developed? This also needs to include the education of students about where they can turn, to gain support in the case of a grievance.