



Learning together

tools to help you get the support
you need at school

Australian Centre for
Disability Law



About Learning together — tools to help you get the support you need at school

Learning together is a toolkit for students with disability and their families in NSW.

If you are a student, this toolkit will help you to get the reasonable adjustments you need so that you can succeed in mainstream education.

If you are a parent or carer, this toolkit will help you to advocate for your child so that they can get the reasonable adjustments they need to succeed in mainstream education.

This toolkit provides advocacy tips, and legal information. This information has been gathered from the experience of advocates, parents, students and educators.

About the words we use in this toolkit

Schools	We use the term ‘schools’ to describe educational institutions, but the information also applies to other educational institutions such as higher education, or early childhood education.
Disability	We use the term ‘disability’ to refer to a broad range of differences. The legal definition of disability is very broad, and we have included the legal definitions in Part Five .
You	When we say ‘you’ in this toolkit, we mean the student — regardless of your age.
Your student	When we say ‘your student’, we are talking to parents, carers, grandparents, other family members or any support people, about the student they are supporting, regardless of the student’s age.
Pronouns	Education should be inclusive for everyone, including students with diverse gender identities. The stories and case studies in this toolkit may include pronouns such as she, he, hers or his to reflect the gender that the subject identifies with, however this toolkit is equally applicable to students of any gender.

Acknowledgment of funding

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How to use this Toolkit

1



Start at Part One — Me and my goals

The first step is to put together some information about you (or your child), your hopes and dreams, and what would make it easier for you to learn.

2



Learn about your right to education in Part Two

This section explains what schools should be doing to support you under the law.

3



Understand what reasonable adjustments are, and how these should be applied in Part Three

This section discusses how and when reasonable adjustments should be made to support your learning.

4



Communication is very important

Part Four focuses on how to build a good relationship with teachers and your school.

5



Sometimes things don't go to plan.

In Part Five, find out when to take things further, and what a legal complaint looks like.

6



Need more help?

We have included a list of advocacy and legal organisations for more assistance in Part Six.

Part One — Me and my goals

Start Here

The first step is to put together some information about you (or your student). What are your hopes and dreams, and what would make it easier for you to learn?

I am a...

...Student

Think about:

What are your hopes and dreams?

What are you good at?

How do you learn best?

What things make it harder to learn?

What would help to make school a fun and happy place for you?

...Parent or Carer

Think about:

What are your student's hopes and dreams?

What is your vision for your student's education?

What does a day at school look like?

What are your student's strengths?

How does your student learn best?



Next

Use this information to create something you can share with the school and your teachers. Use your imagination and make it as interesting as possible.

It might be a:



Book with pictures



Video



Recording



Powerpoint presentation



Letter



or something else

This can be a great way to show your teachers what your strengths are, and how they can support you best. It also can set some expectations about what you need, and help your teachers to see you as a person and a student first.

Helpful tools



[Here is an example of a letter from a parent to their child's new teacher.](#)

A letter like this can help teachers to understand more about you (or your student) and what you need to be able to succeed at school.



[Here is a very detailed letter to the NSW Department of Education from the parents of a student with Cerebral Palsy](#)

This letter explains all about how Mac can be supported at school, and how his classmates can help the teacher to understand what he is trying to say or how he feels. Find out more about Mac's story in [Part Three – Adjustments](#).



[This resource will help you create a vision for how you want your school life to be.](#)

Look at '4. Developing an inclusive vision and setting goals'.



[The video on this page talks about inclusion and what it means for you](#)

See what this parent had to say about what inclusion at school means for her son Jack.



[This booklet](#) has some great information about true inclusion, and some tips for how to communicate your goals to your teachers and school at different stages of your school journey.

Part Two — Your right to education

Education is a basic human right for all people, which is protected under national and international law.

The international Convention on the Rights of Persons with Disabilities, which Australia has agreed to comply with, states specifically at Article 24 the right of persons with disabilities to education, and that countries need to work to protect this right, by providing education to people with disabilities on an equal and inclusive basis.

These rights are also protected in the laws of Australia, specifically the *Disability Discrimination Act 1992* (Cth), which states that its aim is to eliminate discrimination and “to promote recognition and acceptance within the community of the principle that persons with disabilities have the same fundamental rights as the rest of the community.”

Therefore, students with disability have the right to be enrolled, be included and be educated on the same basis as all other students.

This section is about the *Disability Standards for Education 2005* (the Standards).

The Standards focus on helping students with disability access and participate in education on the same basis as other students.

The Standards form part of the *Disability Discrimination Act*, and focus on how the rights of people with disability to education should work in practice.

If the Standards are not followed, then you can make a complaint (see [Part Five – What to do when things are not working](#)).

The Standards are legislation (law), and they are written in a way that can be hard to understand.

This section will help you to understand the most important parts of the Standards, so that you know what schools should be doing to support you.



Why do I need to understand the Standards?

We asked families with disability about the best way to get a great outcome at school, they said:



What do the Standards do?

The Standards focus on helping students with disability access and participate in education “on the same basis” as other students, which means providing opportunities and choices to students with disability like those offered to students without disability.

The Standards try to make rights and responsibilities in education and training easier to understand. They set out what should happen, and when it should happen.

They focus on the rights of students, the obligations on education providers, and measures to assess whether education providers have done what they should do.

What do the Standards cover?

The Standards cover:

- Enrolment,
- Participation,
- Curriculum development,
- Accreditation and delivery,
- Student support services; and
- Elimination of harassment and victimisation.

All education and training providers are bound by the Standards, from preschool all the way up to TAFE and University, including public and private institutions and schools of all types.

Under the Standards, education providers have three main types of obligations.

Schools must:

1. Consult.

- About what adjustments are needed and what they should be.
- With the people involved (you and/or your family).
- At various stages (e.g. before enrolment, when changing something).

2. Make reasonable adjustments.

- So that you can participate on the same basis as other students.
- Re-consider the adjustment if things change.

3. Work to eliminate harassment and victimisation.

What if my school doesn't follow the Standards?

If your school doesn't follow the Standards, we suggest that you first raise it directly with them, using some of the advocacy tools in this toolkit. [See Part Four – Communication](#) for some tips about how best to do this.

If they are still not doing what they need to, then you can make a complaint, through their internal process, or that they are breaching the *Disability Discrimination Act 1992* (Cth). [See Part Five – What to do when things are not working.](#)

Resources



[Here is a link to the Standards with some guidance notes included.](#)

(Follow this link if you would like to read the Standards.)



[Here is a great resource on what schools should do to support you, with examples.](#)

Part Three — Adjustments

This section will help you understand what **reasonable adjustments** are, and how these should be made to help you learn.

If you want to know about the best way to ask for adjustments, see [Part Four – Communication](#).

What are 'reasonable adjustments'?

A reasonable adjustment is a measure or action to help a student with disability take part in education on the same basis as a student without disability.

Adjustments made for you might also help other students, whether they have a disability or not.

Examples of adjustments include:



Different ways to access information



Using assistive technology like voice recognition software, screen readers and adjustable desks



Allowing a student with anxiety to present their project to a small group of peers



Environment and sensory adjustments



Accessing school support services like psychologists, speech pathologists and visiting teachers



Changing tasks or assessments to better suit your needs



Installing ramps or a lift, adjusting seating etc



Adjusting school events and excursions so that everyone can participate



Extra time to finish class work or projects



Additional training for teachers and other staff



[This video explains some of the different types of adjustments one school are making so that students can access the learning from different 'entry points'.](#)

When should the school involve us?

Under the Standards, schools are required to consult with you about what sort of adjustments you (or your student) need to participate in the curriculum.

This **consultation should happen first** — before a decision is made.

The process is designed for teamwork and collaboration between families and schools, and your school may have some suggestions about what sort of adjustments they can put in place, or how they can work towards the things that you need.

The school may not be able to make all the adjustments that you require, but the process of discussing what you need and how (or whether) it can be implemented should involve you as much as possible.

Tips from parents: getting ready to ask for reasonable adjustments



For more detailed information about how to ask for adjustments, see [Part Four – Communication](#).

What if the school doesn't know what I need?

The school may also not know what to do — but this **does not** remove their obligation to consult, consider and make adjustments if they are reasonable.

Every student is different, and schools may not be familiar with your disability or what works best for you. It is important to discuss what the educational setting looks like, and what adjustments you (or your student) will need.

Case study — Henry

Ten-year-old Henry is in year four at primary school. While at kindergarten, he was diagnosed with autism, with anxiety being his biggest challenge.

The priority for Henry's time at primary school has been to develop his self-management skills, and to help him identify and express his emotions.



Adjustments made for Henry include:

- Additional transition visits into prep, and a social story to help Henry become familiar with the school environment.
- Routine access to the school sensory area throughout the day.
- Sensory yoga moves, or the use of headphones to avoid over-stimulation.
- Social stories, especially when the usual pattern of the day has changed.
- Communication tools, such as pictures, to help him understand and communicate his feelings.
- Visual charts and schedules to guide him through the day.
- Steps for starting the school day attached to his school bag.
- Regular contact between the classroom teacher and Henry's mother.

Learning the skills to moderate his moods means Henry can now identify the signs of his anxiety, and what has distressed him, and talk about his feelings rather than lose control.

**Henry's story has been shortened for this toolkit, but [you can read the full story here \(pg 5\)](#).*

Case study — Mac

Mac attends a mainstream primary school in rural NSW. Mac's cerebral palsy means he has no independent movement, has significant vision impairment, and needs assistance with every aspect of his day. Mac uses a device with his feet, pressing through and selecting options to undertake tasks and demonstrate his learning.

Through successful inclusion in his school, Mac engages in the standard school curriculum and has an extensive friendship group.



Some creative adjustments have meant Mac is having a very positive experience at school:

- Mac acted as a council inspector to assess the physical accessibility of the shelters his peers were building in class.
- In science, children designed and developed a simple device for Mac's chair so that he could join in playing handball.
- Mac's classmates developed a presentation about Mac's capabilities for the school assembly, providing insight about his classroom work, humour and contribution.
- A 'wheelchair attendant license' was developed for children before they could push Mac's chair.
- A competency within the curriculum was created so Mac's peers could develop their skills for the role of communication partner.

Mac's mother reports that Mac's peer group have become confident and skilled in supporting him. For example, Mac was able to sleep in a room with five mates at camp.

Everyone knowing what they are working towards for Mac has kept the effort on track and by committing to keep working alongside each other, not pulling back when it gets hard, and keeping the focus on Mac, inclusion has been a reality for him.

**Mac's story has been shortened for this toolkit, but [you can read the full story here \(pg 7\)](#).*

Invisible vs Visible needs

The types of adjustments that each student needs may be different, but there are a few common things that might come up depending on whether you (or your student) have more 'visible' or 'invisible' needs.

- Have a very clear vision about how you want school to be for you (or your student)
— see [Part One – Me and my goals](#).

Think about what your student needs to learn best, and advocate for those things early and often.

My needs are less visible — they relate to learning, behaviour or mental health

Parents tell us that a lot of neurological, behavioural, learning and mental health disabilities are 'invisible' disabilities, and not given the same level of support. As these needs can't easily be seen, they are often ignored, neglected or disciplined. Therefore, it is important to think about what supports or adjustments your student needs, and actively ask for those adjustments.

What to do — some tips from advocates and families:

- Think about the types of support you need — it might be:
 - adjusting the curriculum, including breaking down tasks.
 - support or structure in the playground.
 - sensory spaces, quiet rooms or other self-regulation tools.
 - changes to processes in the classroom, i.e. more breaks, use of different furniture, visual timetables.
 - or all of the above and more.
- You might need an allied health professional to come in and assess the space to work out what you need.
- Try to provide additional evidence of what works or recommendations from your support team if you can.
- If you're concerned that you (or your student) are being excluded eg:
 - regularly being sent home early,
 - only allowed to attend certain classes,
 - only allowed to attend for part of the day.

Then keep detailed records of what is happening (including dates, times and discussions) and then arrange a meeting with the school about it.

You may also want to consider the options in [Part Five](#) around complaints.



I have significant physical support needs, and big changes to the physical environment will need to be made at the school

Start with a very clear vision about how you want school to be for you (or your student)

— see [Part One – Me and my goals](#).

We suggest that you approach the school early, and work together to come up with a plan so that the school can organise appropriate funding if needed, and the changes can be made ahead of time to allow for smooth transitions.

Consider creative approaches and solutions, and be open to suggestions from the school, as well as involving appropriate allied health professionals if needed.

- Focus on how your student can learn and be included in all aspects of the school experience.
- Think about adjustments that may need to be made to:
 - the curriculum,
 - materials provided for learning,
 - the physical environment (ie stairs, ramps, lifts, toilets, playgrounds),
 - school processes (ie bells, announcements, assemblies, excursions).



How should my school and I develop a plan together?

Individual education plans/personal learning plans

The overall focus of any plan developed with the school should be on your child's strengths and interests, and how these can be supported to help them learn.

We believe that it is important to develop a plan with your school, as it can help all parties to be on the same page about how to help your student succeed. If your school does not suggest a plan, then you should ask, in writing, and keep asking until a plan is developed that you are happy with.

The plan should be specific to your student and their needs, and include adjustments that are appropriate to their skill level and their learning expectations.

Here is an example of an individual education plan that you can use as a guide:

IEP Semester 2 2022 — All Staff			
Oscar Skillion Year 5 5K Mr Kelly	Oscar loves kayaking and playing online games with friends. He can become overwhelmed easily and is developing his skills to identify and regulate his emotions. Oscar is very creative and prefers math to English activities as he prefers rules and predictability. He may appear very tired in the afternoons and you may notice increased movement, impulsivity and less tolerance of his peers.		
Diagnosis	Interests	Possible triggers	Executive function challenges
ADHD Combined Type Generalised anxiety Sensory sensitivity	Kayaking Online gaming Handball	Shouting Social injustice Frustration Strong smells	Working memory Impulsivity Emotional regulation Time
Medical	Friendships	Go to teacher	Extra notes
Office at recess	Kian 5D Nicholas 5C	Mrs Blanc KB	
General Adjustments	Sensory	Oscar is allowed to use the staff toilet during class times as the smell of childrens toilets may overwhelm him.	
	Management	In general Oscar is developing his Executive Function skills via Collaborative and Proactive Problem solving. NB Dr R Greene. Each 'issue' is an opportunity to develop and strengthen all his EF skills. Follow flow chart of steps.	
	Unregulated behaviour	Produce a 'Chill Out' card from Chill time box, with no discussion. Inform 'Go To' teacher discreetly. Do not engage be the calm ne needs to be, listen acknowledge but do not engage.	
	Casual teacher or major VOR	Oscar may take 'project' and laptop to Mrs Blanc as pre-arranged.	
Goal 1	Oscar will participate in 4 of 5 lessons per day and more if he chooses. He will make use of self-regulation tools and strategies to assist him participate. When not engaged in classroom activities he is allowed engage in his weekly interest project.		

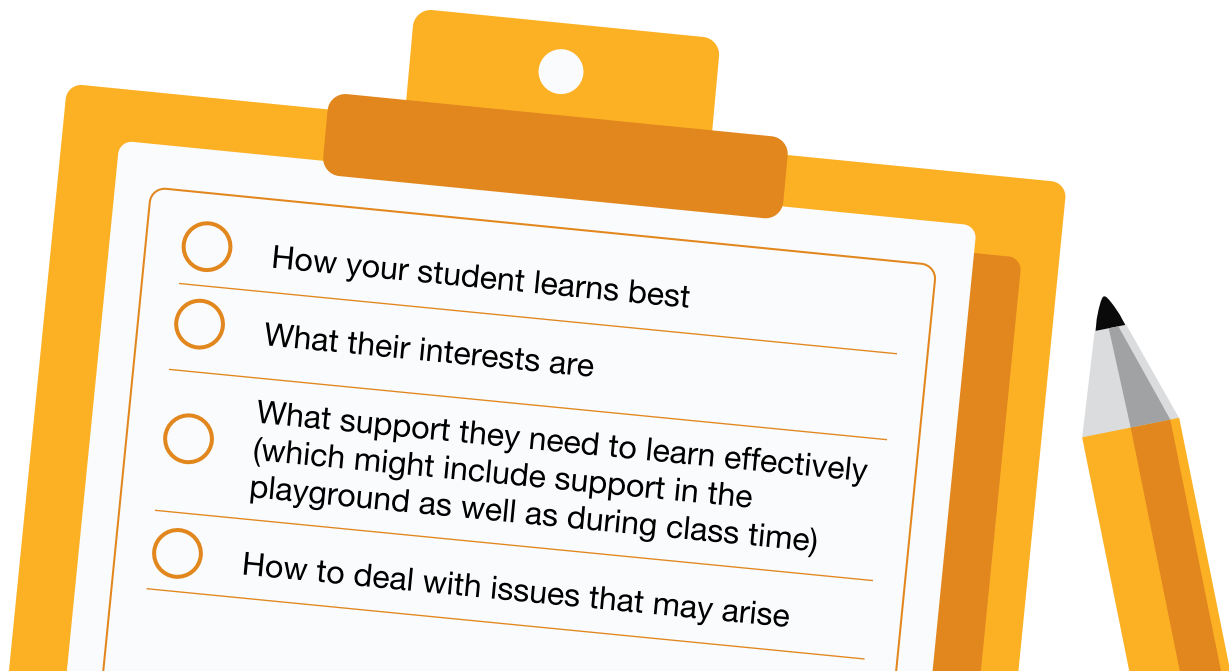
Reasonable Adjustments: Classroom	
Working memory	<p>Provide simple instructions, one or two steps only. Show if possible.</p> <p>Avoid sarcasm and literal meanings.</p> <p>Write instructions on desk chart. First.... Then...</p>
Impulsivity	<p>Use verbal and non-verbal queuing systems.</p> <p>Praise for self-control.</p> <p>Feedback for using self-regulation strategies.</p>
Focus and concentration	<p>Encourage use of fiddle tool.</p> <p>Allow to sit at back of group so movement doesn't distract others.</p> <p>Oscar may choose to sit at desk and draw while listening to teacher.</p> <p>Check in and ask, "If he is in the green zone, alert and ready to learn?"</p> <p>Provide a movement break before required to sit for an extended time more than 15 mins.</p> <p>Wobble chair in storeroom if required for sitting at desk for long periods 20 mins.</p>

Goal 2	Oscar will successfully participate in all playground activities with minimal support. Oscar is learning to apply his toolbox of emotional regulatory skills independently but may need reminders and at times support to co-regulate his emotions.
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Reasonable Adjustments: Playground	
Time	<p>Quietly remind and discuss with Oscar how he will be spending his time today and with whom and he can make these arrangements during eating time.</p>
Emotional regulation	<p>Check in and ask Oscar to do a body check and grounding. Once complete ask him if he is calm and alert and ready to play or, does he need to use a tool from the toolkit.</p> <p>Check in after breaks and allow 5 mins of quiet time before joining in with class activity. He may choose a chill activity at random from the 'Chill Time' box.</p> <p>Oscar may ask to go to Learning Support room to self-regulate.</p>

Learning Support	Assistant Principal	Parent	Student
Sign	Sign	Sign	Sign
Next Term Progress Meeting via Phone	Date	Date for next review	Sign

Things that you might want to include in a plan:



Other types of plans that the school may develop relating to risk or behaviour

Your school may also want to develop a risk management or behavioural management plan, or you may find that they have developed and implemented one without your input. It is worth asking about any other plans that the school is considering at the planning meeting about the individual education plan to make sure everyone is on the same page.

A risk management plan (as part of or alongside an individual education plan) may be helpful to you and your student, as it can focus on an assessment of potential risks to your child, such as:

- physical spaces, such as areas of the playground or classroom;
- specific activities or school processes; or
- significant physical and/or psychological challenges in the school environment.

You should feel comfortable with the types of risk management strategies that are proposed in the plan, and that the focus is on protecting your student in the learning environment as well as everyone else.

If you have requested adjustments to support your student in their self-regulation, make sure that any risk management plan refers back to those supports as the first step in responding to any situation of risk.

You might also need to work with the school to develop risk management plans for particular situations, such as school camps or excursions.

It is important that the behaviour associated with your student's disability is understood, and that the shared goal is your student learning effectively alongside their peers.

While you may not want to develop a separate behavioural support or management plan, as the support that your student needs should be found in the individual education plan, if your school insists on one, then we recommend that you advocate for it to be:

- Limited
- Specific
- Reviewed every term
- Implemented as an alternative to the school's discipline policy (either in part or entirely).

Discipline policies

Each school develops their own discipline policy which needs to be consistent with legislation (including disability discrimination legislation), and for public schools - with government and departmental policy.

Sometimes the discipline policy, while appearing neutral on its face, has the effect of disciplining your student for behaviour related to their disability, which can lead to increased punishment and suspensions.

We suggest that you review your school's discipline policy, and consider requesting specific adjustments to how it is implemented in relation to your student, to reduce the risk of suspension.

If your student is suspended and you believe it is related to their disability, then see Part Five for your complaint and appeal options.

Helpful tools



[This video shows students talking about physical adjustments made to their school campus.](#)



[This video is Al's story about his journey, how physical adjustments were made to school, but also focussing on the great friendships Al has formed.](#)



[This website includes examples of specific adjustments given.](#)



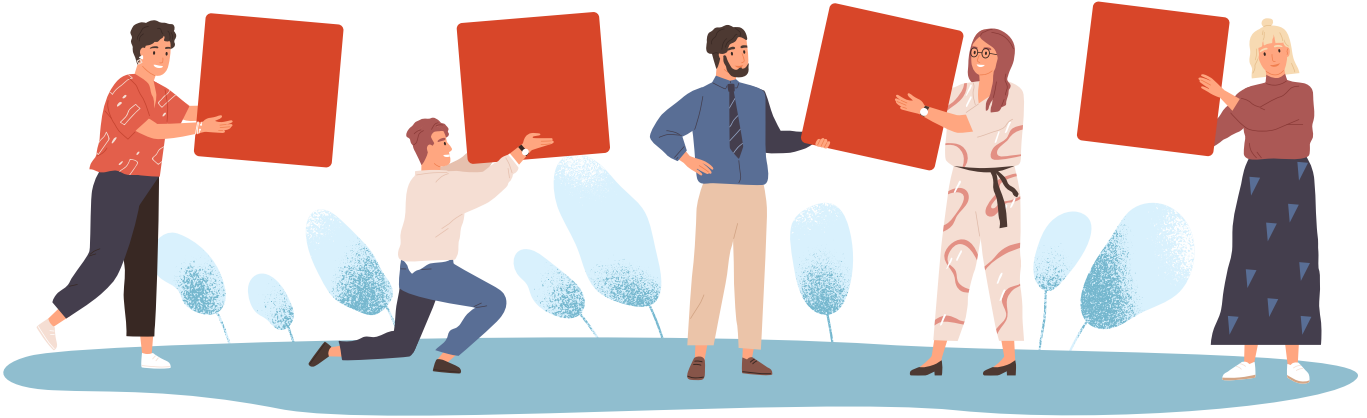
[This is a great resource on different adjustments for different disabilities with lots of practical examples.](#)



[This video discusses the various adjustments made for students at a primary school.](#)

Part Four — Communication

Communication between you and your school is very important. This section will help you get the most from your relationship with teachers and your school.



Think of yourselves as a team (the school, yourselves, your other supporters). The team must work well together for many years.

Even if issues sometimes come up and tempers flare, try to focus on what your team is trying to achieve together: the best educational outcome for your student.



One parent said:

“Work on establishing a respectful, collaborative dialogue. Share information from the beginning — not just in a panic when things go wrong.”

We have put together some tips from students, parents, advocates and educators to help you at different stages:



Pre-enrolment
— before you
decide where
to enrol



Enrolment



**When
school starts**



**Ongoing
communication
with the school**



**During
transition
times**



**When specific
issues arise**



Pre-enrolment — before you decide on a school

It can be a good idea to look around at different school options and take some school tours before you decide where to enrol (if you have choices in your area and your budget).

Think about the type of school that might suit you and your student best:

- Is it a smaller school, with smaller classes?
- Is it a larger school with additional resources/grounds?
- What sort of learning support options and classes do you want to be available?
- Think about what sort of classroom set-up and options you would like to be able to access.

This will help you to come up with some focussed questions for staff when you go on a school tour.



It's also helpful to:

- See if you can chat with past parents and/or teachers, and people in your local area to find out about the attitude and adaptability of the school. Social media can also be a source of information, as can the school website, and the Department of Education and the Nationally Consistent Collection of Data sites.
- Talk to your medical and support team about what adjustments you might need, in terms of the physical space or learning support.
- Consider what sort of physical spaces are already in place, and how they can be modified to suit your student. Some schools have space constraints, so you should consider what may or may not be reasonable to request to be modified in a physical environment.
- Consider making formal inquiries with the school about existing disability support options before you decide to enrol.

Important: if you make inquiries with a school about disability support and are rejected from enrolment, you may have a claim of disability discrimination — see [Part Five](#) for options.



Enrolment

Before starting at a school, we believe it is important to try and provide as much information as possible about what you and your student need.

1. Organise a meeting to discuss additional needs during the enrolment process. Make sure you tell the school that you will be discussing additional needs at that meeting, so that all parties are prepared. If the school will not meet with you, then document your requests and consider the options for complaint in [Part Five](#).
2. Ask the school about what information they will need, and try to prepare this information and give it to the school before the meeting.
3. Bring additional copies of the relevant documents and information. This may include:
 - Medical reports (relevant and recent ones).
 - Recommendations from your support team about adjustments.
 - A copy of your vision statement (see [Part One – Me and my goals](#)).
 - Information from previous schools about what adjustments worked.
4. After the enrolment meeting, follow up in writing with the school about **what was requested, what was agreed and what still needs to be done**. It is important to establish a clear timeline of what needs to happen and who will do it before school starts.
 - If more information is needed, be clear about **when** it will be provided and to **whom**.
 - If another meeting will be needed to confirm the adjustments, then make sure that is scheduled.

Important: if you discuss specific disability support and adjustments during the enrolment process with a school, and are rejected from enrolment, you may have a claim of disability discrimination – see [Part Five](#) for options.





When school starts

Ask the school and teacher how they prefer to stay in touch with you, and try to map out a plan before you start.

It's a great idea to agree on how often to contact them, and how. For example, is email the best option, or does your teacher prefer a school app for communication? Try and be specific, and make sure everyone has realistic expectations about the level of contact and expected response times.

Some tips we have gathered from families, advocates and educators include:

- Have a nominated contact person at the school — this might be your teacher, or someone else.
- Be clear about how often you will contact the school, and how often you expect to hear from them.
- Agree on a realistic timetable for email communication on both sides, and what type of things should be raised by email.
- Communication books — consider whether it would be useful to have a book for teachers to write in and parents to respond in.
- Apps — if the school uses an app to provide information about the day, discuss how it can be used by both sides to provide information and feedback, and whether they prefer that to email.
- Try to involve yourself and your student in the school community as much as possible.



At the beginning of every year, it's also helpful to have a meeting that involves all educators and support people together with the student and their family. The goal for this meeting is to map out the year and develop plans (like the Individual Education Plan discussed in [Part Three](#))



[This video has some great examples of strong communication between families and school.](#)



Ongoing communication with the school

It's important to be realistic when you're communicating with the school. Whilst you and your child are very important, so are all the students. It might not be realistic for teachers to respond immediately, or be in contact with you every day.

Positive feedback is a great way to let teachers know when things are working well. This is also a good way to keep the relationship healthy.



One parent said:

"Advocacy is a constant job — not just when there are problems, (it's) always good to let the school know what they do well."

Some tips about email



Some tips about meetings

- Be clear about what the purpose of the meeting is, who is coming, and what will be discussed.
- Use an agenda (list of items to talk about), and if you're asking for something, make sure it's written on the agenda.
- Bring your relevant documents (your vision statement, medical information, copies of requests, previous plans).
- Take minutes (notes), and send a copy to everyone who was at the meeting.
- Try to separate your feelings from what is being discussed — remember that you are a team.
- Involve your student in meetings as much as possible so that they can increase their skills to advocate for themselves over time. This will also help to make sure that their voice is heard. If they are not attending, bring a photo of them so everyone is reminded about who is being discussed.
- Bring a support person or an expert with you if possible.

Some parents we asked said:



During transition times

When something is changing (the year level, or the class teacher etc.) it's important to organise a meeting before this happens to talk about how the changes will be made. Allow plenty of time — ideally this meeting would happen during the previous year, or at least a couple of weeks before terms starts.

This is particularly important between primary and secondary school.

- Attend all general orientations and raise your specific needs.
- Take tours of the new campuses with your student.
- Talk to new teachers.
- Think about what has worked well in the past, and try to arrange the same things (ways of communicating with the teacher, adjustments etc.).
- If your school won't meet with you, or does not respond to your requests within a reasonable time, make sure all requests have been in writing, then consider the options in [Part Five](#) about complaints.



When specific issues arise

If an incident or issue has occurred, or if something is coming up that needs to be discussed like an excursion, a sports carnival or a school camp, it's important to be clear about what has happened, and decide the best way to discuss it.

For example, if there is a small issue – perhaps a quick chat in the playground or at the school gate with the teacher (followed up with an email) will be enough. For a larger or ongoing issue, or for planning adjustments for a new event such as an excursion or sports carnival, it might be best to arrange a formal meeting with other support people present (see previous section about meetings).

Always put your concerns in writing, along with any changes that have been agreed.

Even if you resolved something with a quick chat – follow this up with a short email so that you have a record of what has been agreed.

Email example:

New message

To

mrssmith@sampleps.edu.au

Subject

Joseph struggling to see the board during class

Hi Sarah,

Thanks for the chat this afternoon, I really appreciate your help. Just confirming that we will try having Joseph sit closer to the front of the room starting tomorrow.


Hopefully this will help him to see the board more clearly.


Kind regards,


Lucy


Send


A














What doesn't work (and what to do instead)

Here are some of the things that do not work well. Some of these examples have come from families who have experienced poor relationships with teachers and their school.

In extreme cases, the relationship can break down completely, or communication can be very restricted — a poor outcome for the student.



Examples of actions that can have a negative effect



How you can improve communication and work towards positive outcomes

Sending too many emails.	Try putting a few notes together every few days instead.
Emails that have too much detail or are very long.	If you want to provide a lot of information, ask the teacher how they would like to receive it, and whether you can discuss it with them.
Emails that cover too many things — it can be unclear what you are asking for.	Use dot points or numbers to be clear.
Emails that have a mixture of feedback, complaints, positive comments and requests for specific information or meetings (making it hard to tell if something has been missed).	Try to limit your email length and always include something positive, but have a clear 'ask'.
Aggressive emails or letters.	If you are upset, ask someone else to read it first. Think about how you would feel if you were reading the message. See whether you can change the tone to get a better outcome.
Demanding things that might not be reasonable (for example, that the school provide written notes the same day that a meeting has happened).	Think about the overall relationship, and how it can work better. If it would be unreasonable to ask someone to do that in your workplace/ daily life, then it is probably unreasonable to ask of the school.
Copying multiple people on emails who are not involved (this can make people uncomfortable, and it can feel like a shaming exercise).	If you need to provide information to others, forward the emails to them separately.



Examples of actions that can have a negative effect



How you can improve communication and work towards positive outcomes

Long email chains.	Start a new email for a new issue so that people don't have to scroll through lots of information.
Refusing to talk to particular staff, or about particular things.	Even if you're frustrated, try to find a way to keep communicating for your child's sake.
Verbal agreements — these can be hard to follow up later.	Keep your own records, but also make sure that important things are recorded in writing between you and the school — either by email, or in meeting minutes.
Letting emotions or past experiences take over.	It can be hard, especially if there is a lot of history – but try to focus on your child, and the specific issue. Sometimes having a support person at meetings can be helpful.

Helpful tools



[This toolkit has some excellent tips for how to communicate and negotiate with your child's school — written by a parent](#)



[This Australian Government fact sheet has some great tips for consulting with your school](#)



[This site has some helpful information about planning for personalised learning and support](#)

Part Five — What to do when things are not working

Sometimes, despite following all the advocacy tips in the previous sections, things do not go to plan, or the teacher or school do not do what your student needs to support their education. If that happens, there are a few different ways you can handle the situation.

This section goes through the non-legal internal and external complaint options, and then the legal options relating to a disability discrimination complaint.

How to approach a complaint

It can be hard to put aside your emotional reaction to what has happened, especially if there have been some difficult situations or heated discussions. However, we recommend that you think about how the overall relationship with the school can be preserved, without reducing the support that your student needs. Approach any complaint process with a positive attitude and a willingness to compromise if possible, and provide as much detail as needed to make it clear what the issues are, without including every comment or email.

It is also important to try and focus on:

- what adjustments or support your student needs
- when they were asked for
- what hasn't happened that needs to happen (or what has happened that shouldn't have happened)
- what outcome you are seeking.

We recommend that if you are not sure of what option you should take at this stage, that you read this section and consider contacting the legal and advocacy organisations in the next section for further advice and support.



Internal complaints within the school

If something is not working, raise it directly and in writing with the teacher/staff member themselves first.

It may be that there has been a misunderstanding that can be cleared up with a meeting or a response email.

If you are not happy with their response, then:

- Raise your concerns with the principal/head teacher in a new written communication (ie email or letter).
- Ask for a response within a certain timeframe (ie 7 days), and try to organise a meeting.

Sometimes an issue can be resolved with both parties meeting in person to discuss the issues fully. Follow the tips in [Part Four](#) around meetings and keeping notes.



External complaints — to the department/board/diocese

If you have raised your issues with the teacher and the school directly, and things have not resolved, then the next option is to complain through the formal complaint processes of your school.

These may be different depending on whether your student is at a public school, a private school or a religious school.

We recommend that you look at the individual complaint processes for your specific school, which should be readily available on their website or from the school office and follow those processes.

- Ensure that you put your complaints clearly in writing, with sufficient information for the person investigating to be able to look into the issues you raise.
- We also recommend that you focus your complaint on the main issues that can be investigated and potentially resolved, rather than detailing every negative interaction.
- You should follow up on all timeframes for response and provide any supporting material if you are asked. When you receive the results of the investigation/complaint process, consider how the outcomes can be implemented, and follow up with the school.

Sometimes there are additional levels of complaint that you can take, or appeals against the decision that has been made, so it is worth considering whether you have used all options within your school structure before considering a legal complaint.

Look at [Part Six](#) for the different organisations that can provide you with advocacy support or legal advice in relation to these complaint processes.

Legal options of complaint

If you have tried the complaint options above, and have not been successful or are not happy with the outcomes, then you may want to consider a formal complaint of disability discrimination.

We will explain what disability discrimination is under the law, the two complaint options in NSW, what to expect in a complaint process, and potential court or tribunal options if a complaint doesn't resolve.

What is disability discrimination?

Disability discrimination is when someone with a disability is treated less favourably than a person without a disability in similar circumstances.

The law states that educational authorities and providers cannot discriminate against people with a disability. This includes discriminating against associates of someone with a disability, like a parent or a close friend.

To be successful in a complaint of disability discrimination, you need to:

- 1 Have a disability under the law** (this includes a broad range of disabilities, including:
 - a. temporary (e.g. a broken leg),
 - b. future (a disease you may get),
 - c. and imputed — (i.e. someone thinks you have a disability).

- 2 Be treated differently because of your disability** — either:
 - treated less favourably than someone without your disability (direct discrimination) or
 - required to meet a term or condition which you can't meet because of your disability, and reasonable adjustments aren't made (indirect discrimination).

- 3 Be in a protected area of public life** — education is protected under both state and federal laws.

Note that this toolkit largely focuses on the Commonwealth laws and the *Disability Discrimination Act 1992* (Cth) (DDA), as this applies to all educational institutions, whereas the *Anti-Discrimination Act 1977* (NSW) (ADA) is limited to only certain educational institutions in NSW. Therefore, while the ADA is mentioned and the complaint processes under it are discussed, the details of its terms are not discussed in detail, and terms such as 'reasonable adjustment' relate to the DDA specifically. If you would like more detail or advice on the specifics of a complaint under the ADA, please contact the Australian Centre for Disability Law or your local community legal centre for advice (see [Part Six](#)).

1. Have a disability under the law

The definitions of disability under the law are very broad.

Under the *Anti-Discrimination Act 1977 (NSW)*, “disability” means:

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

The definition under the ***Disability Discrimination Act 1992 (Cth)*** is very similar, but also includes the extra points that:

includes a disability that:

- h. presently exists; or
- i. previously existed but no longer exists; or
- j. may exist in the future (including because of a genetic predisposition to that disability); or
- k. is imputed to a person.

To avoid doubt, a **disability** that is otherwise covered by this definition includes behaviour that is a symptom or manifestation of the disability.

Here are some examples of disabilities that are protected under the law
(these are only some examples of the very broad and inclusive definitions):

- Learning and neurological disabilities → ie dyslexia, autism, ADHD, ODD
- Physical disabilities → ie quadriplegia
- Psychosocial disabilities → ie depression, anxiety, bi-polar
- Sensory disabilities → ie vision and hearing impairments
- Cognitive disabilities → ie brain injuries, intellectual disabilities
- Neurological disorders → ie epilepsy, multiple sclerosis
- The presence of disease → ie HIV/AIDS, hepatitis, cancer.

If you are not sure whether your disability is protected under the law, please contact one of the legal organisations in [Part Six](#) for advice.

2. Be treated differently because of your disability

Direct discrimination happens when someone with a disability is treated differently or less favourably than someone without disability.

For example:

- a student is not allowed to join the school play because they are in a wheelchair.
- A student is not allowed on an excursion because they have epilepsy.
- A student who is hearing impaired is refused an Auslan interpreter so can't participate in class and fails.

Indirect discrimination happens when it seems that a term or condition applies to everyone equally, but someone with a disability can't meet that condition because of their disability, and no adjustments are made for them.

Examples of indirect discrimination can include:

- a student with vision impairment having to complete an exam under the same conditions as all other students (without any adjustments to the exam materials).
- A student being suspended for swearing when they have Tourette's syndrome — although a plan was in place for how to assist them when they are in an escalated state, the school failed to follow the plan.
- A student being punished for not sitting still in class when their disability makes it hard for them to do so.
- A student with autism who requested an adjustment (ie extra time) when an assessment was changed at the last minute, and the school failed to provide that adjustment.

Important: you should ask for adjustments to be made if you need them, otherwise it can be hard to show that you were not given the appropriate adjustments that you need. We suggest that all requests should be in writing.



Making a complaint in NSW — Two options

Option 1

Complain to Anti-Discrimination NSW (ADNSW)

Act: *Anti-Discrimination Act 1977 (NSW)*

Cost: Free.

Time limit: 12 months from the date of discrimination.

Who can I complain about? Only NSW State schools – not private or religious institutions.

How do I complain? Lodge your complaint in writing – via website, email or mail.

More info? www.antidiscrimination.justice.nsw.gov.au/Pages/adb1_makingacomplaint/adb1_makingacomplaint.aspx

or

Option 2

Complain to the Australian Human Rights Commission (AHRC) — Federal

Act: *Disability Discrimination Act 1992 (Cth) (DDA)*

Cost: Free.

Time limit: 6 months from the date of discrimination.

Who can I complain about? All types of schools or educational institutions.

How do I complain? Lodge your complaint in writing — via website, email or mail.

What about the Standards? Your complaint can also include a breach of the Standards (section 32 of the DDA).

More info? www.humanrights.gov.au/complaints

What does the complaint process look like?



Put your complaint in writing



The complaint is accepted and sent to the other side



A response from the other side



The complaints body organises conciliation (meeting) between the parties



Different outcomes discussed at conciliation



The matter may settle and resolve

Things to note about the complaint process:

- You can only complain to either ADNSW or the AHRC, not both.
- Be aware of the time limits for lodging a complaint — 12 months for ADNSW, 6 months for AHRC.
- Your complaint should say what happened, why you think it is discrimination, and what you want to happen.
- The complaints body is there to help guide parties to discuss their issues — they do not decide who is right or wrong, or whether discrimination happened.
- If the complaints body gets a written response from the other side, it will not come from individual teachers, but instead from higher up within the school or the NSW Department of Education (if a public school), or their lawyers.
- You do not need a lawyer throughout this process, but you may want to consult one, or bring a lawyer or support person with you to a conciliation. You may or may not want to bring your student.

Things for you to think about

The conciliation is your chance to explain how you felt and have the other side listen, so prepare a statement, focusing on your feelings and what you want to change in the future.

Consider what outcomes you might want from a conciliation, they can include:

- Changes to policies or procedures at the school;
- Specific adjustments to be put in place for your student;
- Changes to a practice or discipline policy;
- Compensation for pain, humiliation or distress;
- An apology for what happened;
- Or any other things that you can come up with and agree on.

You don't have to agree on outcomes, but compromise and resolution can sometimes help everybody.

If a complaint resolves at conciliation, you usually sign a deed agreeing not to make further complaints, and not to talk about it.



What if my complaint doesn't resolve at conciliation?

You may want to take your matter further. We recommend that you get legal advice about the prospects of success of your complaint from the organisations in [Part Six](#) before going ahead with the next steps.

Defence

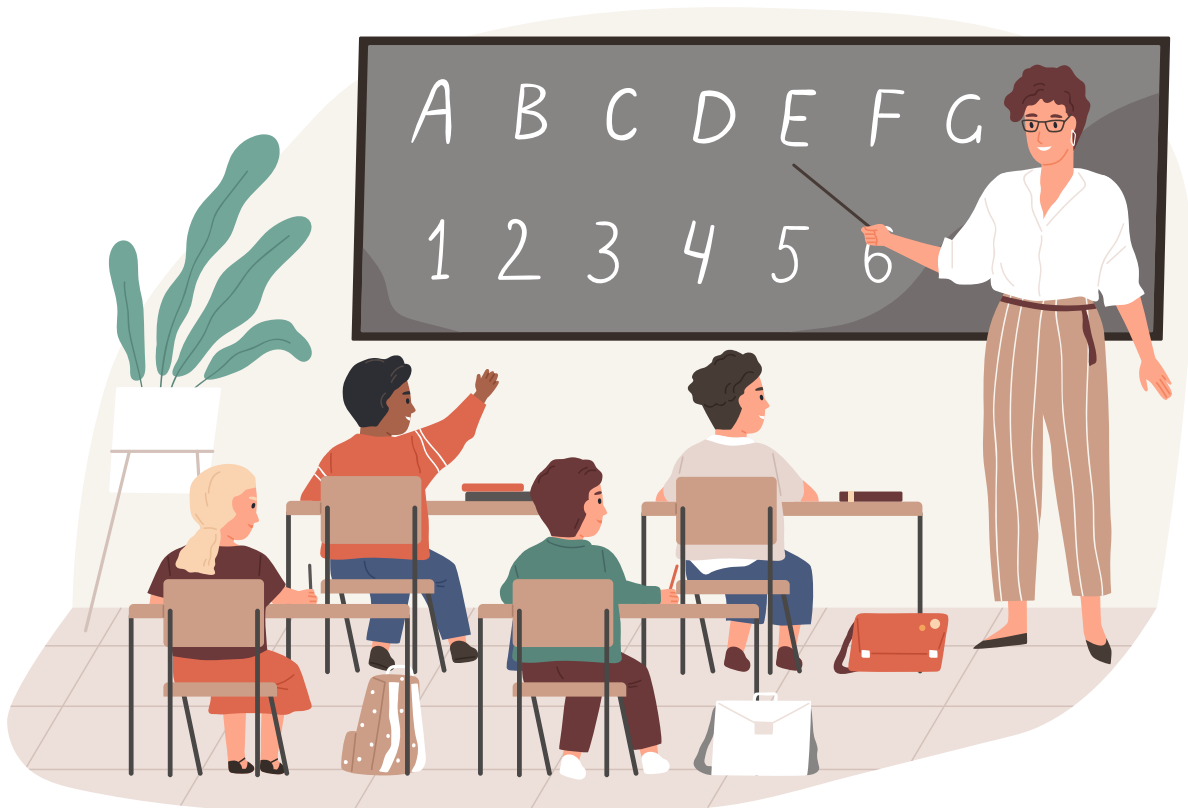
It is worth being aware that while you may have requested a number of adjustments from your school, not all adjustments are considered 'reasonable' under the law, so if you took it further you might not be successful in all elements of your claim.

The main defence available to education institutions in a disability discrimination complaint is 'unjustifiable hardship'. Unjustifiable hardship requires balancing the impact of the requested adjustment on the school and other students, against the benefit to the student requesting the adjustment. This can include practical, financial and other considerations.

You may need to provide further evidence to support your claim, such as medical documents, witness statements, emails or other written records of what happened.

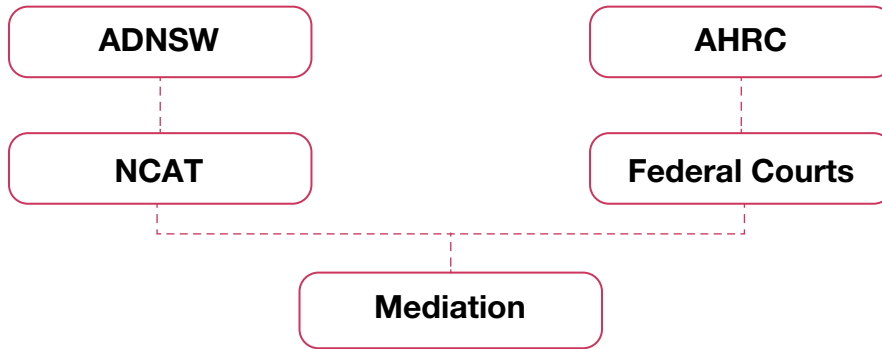
Factors that would be considered and weighed up to decide whether the school can rely upon the 'unjustifiable hardship' defence:

- How much the adjustment would benefit the person with the disability.
- The disadvantages of the adjustment to other people and the school.
- The financial cost of making the adjustment.

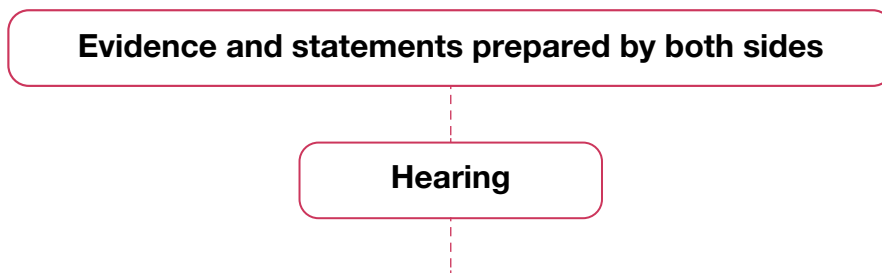


Next steps – court or tribunal

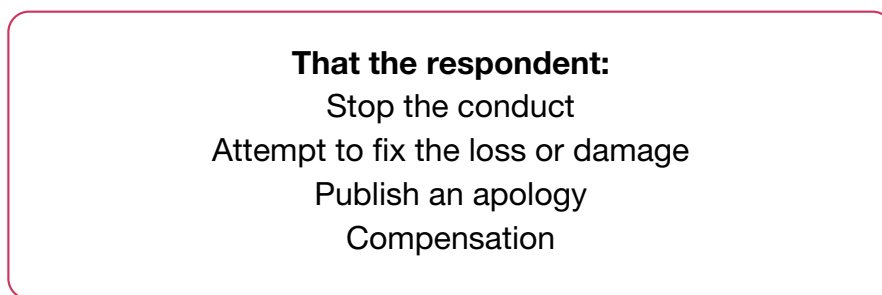
If you made your complaint to:



If it doesn't resolve at mediation:



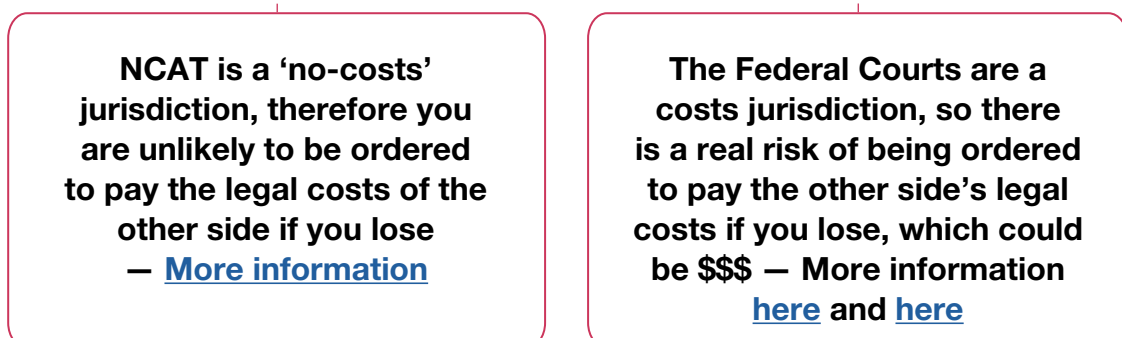
What can the tribunal or court order?



What is the limit of compensation?



What about legal costs?



Case study — Refusal of enrolment at tertiary level, AHRC complaint

Jess was passionate about pursuing a vocational course at her local college. Jess has cerebral palsy, epilepsy and a mild intellectual disability. At the age of 23, Jess had already completed a course and was interested in further developing her passion and skills.

Jess organised a meeting with the course facilitator to discuss what adjustments could be made to assist her to enrol in and complete the course as she uses a wheelchair, only has use of one hand and communicates through a talking device. The facilitator was concerned about Jess' ability to complete the course to industry standard due to her disabilities.

When Jess attended the pre-enrolment day she was required to complete a quiz. Her support person was sent out of the room and the teacher's aide present did not provide assistance, including to enlarge the text on the screen so that Jess could read the quiz. Jess was also embarrassed by the teachers' loud remarks about her epilepsy when her support person expressed concern for being made to leave the room. Depressed and angry after this experience, Jess did not attend her physiotherapist appointments and required treatment by a psychologist.

Jess made a complaint to the Australian Human Rights Commission, and approached ACDL seeking information about the conciliation process. ACDL assisted her in procedural and legal matters, and Jess felt that she was able to express her views and be heard.

The conciliation resulted in the college apologising to Jess and committing to updating their disability policies. She also received some compensation to pay for a similar course to complete elsewhere.



Case study — Expulsion

Omar is a 13 year old student in Year 7 at a public school. He has autism, attention deficit hyperactivity disorder (ADHD), oppositional defiance disorder (ODD) and anxiety, and has a behavioural management plan in place. Due to his disabilities, he often acts out in a silly or joking manner, including swearing, and he often lashes out physically when distressed, which is why his behavioural management plan focuses on ways to calm him down. The school follows a strict discipline policy for anything that is seen as misbehaviour: any student who swears or engages in any physical altercation of any level is automatically suspended for 2 days, and progressively longer suspensions occur for each new breach of behaviour.

Omar experienced increasingly long suspensions throughout Year 7 for minor incidents of physical altercations and swearing, firstly for 2 days, then 4 days, then 5 days, culminating in a 20-day suspension for appearing to threaten a teacher. The teacher and other students interpreted this incident as clowning around rather than a genuine threat and the situation was quickly defused. The incident was not even mentioned by his teacher to his parents until the suspension occurred some days later. His mother repeatedly requested that the discipline and suspension policy be amended to take into account Omar's tendency to act out inappropriately, and for the school to institute alternative forms of discipline in accordance with his behavioural management plan, such as detention or similar. The school did not do so, and after the last long suspension, Omar was again found to be misbehaving and was expelled.

Omar's parents made a complaint to the AHRC, and were able to have the expulsion removed from his record, the option of returning him to the school later if they wanted, and an amount of compensation.



Part Six — Legal and advocacy organisations who can help

Do you need more help?

The Australian Centre for Disability Law — www.disabilitylaw.org.au

The Australian Centre for Disability Law is a community legal centre specialising in the legal rights of people with disability. [Contact us](#) if you think you might need to make a complaint about disability discrimination.

Other legal organisations

The other **legal organisations** below can also help you if you think you might need to make a complaint about disability discrimination.

- [Youth Law Australia — www.yla.org.au](http://www.yla.org.au)
- [Community Legal Centres NSW — www.clcnsw.org.au](http://www.clcnsw.org.au)
- [Legal Aid NSW — www.legalaid.nsw.gov.au](http://www.legalaid.nsw.gov.au)
- [Kingsford Legal Centre — www.klc.unsw.edu.au](http://www.klc.unsw.edu.au)
- [Public Interest Advocacy Centre \(PIAC\) — piac.asn.au](http://piac.asn.au)
- [Law Society of NSW — www.lawsociety.com.au](http://www.lawsociety.com.au)
- [Justice Connect — www.justiceconnect.org.au](http://www.justiceconnect.org.au)

Advocacy organisations

The **advocacy organisations** below can provide information and support (such as attending meetings or writing letters) to help with the adjustments, supports and inclusion you need to succeed in mainstream education.

- [People with Disability Australia — www.pwd.org.au](http://www.pwd.org.au)
- [Disability Advocacy NSW — www.da.org.au](http://www.da.org.au)
- [Family Advocacy — www.family-advocacy.com](http://www.family-advocacy.com)
- [Physical Disability Council of NSW — www.pdcnsw.org.au](http://www.pdcnsw.org.au)
- [IDRS — www.idrs.org.au](http://www.idrs.org.au)
- [Youth Action — www.youthaction.org.au](http://www.youthaction.org.au)
- [Children and Young People with Disability Australia \(CYDA\) — www.cyda.org.au](http://www.cyda.org.au)
- [Parents for ADHD Advocacy Australia — www.parentsforadhdadvocacy.com.au](http://www.parentsforadhdadvocacy.com.au)
- [All Means All — www.allmeansall.org.au](http://www.allmeansall.org.au)

Web links

You may have noticed a lot of click-able links throughout this document. For people who choose to print a copy of this toolkit, please find a list of web links below.

Page 5

www.thegrowingspace.com.au/tip-a-letter-to-my-childs-teacher-for-the-new-school-year/inkyed.files.wordpress.com/2009/04/mac2det.pdf
allmeansall.org.au/for-parents/
www.family-advocacy.com/ordinary-lives/school-years/
www.family-advocacy.com/assets/ce93bc49e3/all-students-learning-together-booklet.pdf

Page 8

https://docs.education.gov.au/system/files/doc/other/disability_standards_for_education_2005_plus_guidance_notes_0.pdf
www.nccd.edu.au/wider-support-materials/whats-reasonable

Page 9

www.nccd.edu.au/illustrations-practice/kings-meadows-high-school-types-adjustment

Page 18

www.nccd.edu.au/illustrations-practice/sir-joseph-banks-high-school-adjustments
www.youtube.com/watch?v=lkbsmv22wCg&feature=youtu.be
www.nccd.edu.au/wider-support-materials/whats-reasonable
www.adcet.edu.au/students-with-disability/reasonable-adjustments-disability-specific/
www.nccd.edu.au/illustrations-practice/ashdale-primary-schools-levels-adjustment

Page 22

www.nccd.edu.au/illustrations-practice/st-josephs-school-communicating-school

Page 27

<https://inclusiveschoolcommunities.org.au/resources/toolkit/parent-perspective-tool-3-necessity-negotiation-and-compromise-your-childs-school>
docs.education.gov.au/system/files/doc/other/dse-fact-sheet-4-effective-consultation_1.pdf
www.nccd.edu.au/sites/default/files/planning_for_personalised_learning_and_support.pdf

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<https://ncat.nsw.gov.au/ncat/case-types/anti-discrimination.html>
<http://www.federalcircuitcourt.gov.au/wps/wcm/connect/fccweb/gfl/human-rights>
<https://www.fedcourt.gov.au/law-and-practice/national-practice-areas/aclhr>

More support

Sometimes the processes outlined in this toolkit can take their toll. Students, carers and families can become overwhelmed and exhausted, and may struggle to manage.

The organisations below provide additional support.

- [Reach Out — www.au.reachout.com](http://www.au.reachout.com)
- [Beyond Blue — www.beyondblue.org.au](http://www.beyondblue.org.au)
- [Kids Helpline — www.kidshelpline.com.au](http://www.kidshelpline.com.au)
- [Parentline — www.parentline.org.au](http://www.parentline.org.au)
- [Lifeline — www.lifeline.org.au](http://www.lifeline.org.au)

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- Children and Young People with Disability Australia, particularly Sue Tape
- Parents for ADHD Advocacy Australia, particularly Louise Kuchel
- Disability Advocacy, particularly Demi Woods
- The Physical Disability Council of NSW, particularly Serena Ovens
- IDEAS, particularly Angela Van Den Berg
- Youth Law Australia, particularly Kate Richardson and Caitlin Comensoli
- Youth Action, particularly Angus Lonergan
- The Public Interest Advocacy Centre, particularly Chadwick Wong and Michelle Cohen
- All means All, particularly Catia Malaquias
- Ya'el Frisch
- Simon da Roza at Exceptional Learners
- Students, families and other supporters who participated in online surveys, or provided feedback along the way. Your honest insights will make a difference in the lives of students with disability.