



2020 Review of the *Disability Standards for Education 2005*

Department of Education, Skills and Employment
Australian Government

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2020 Review of the Standards

As part of the Review of Standards, Department of Education, Skills and Employment are examining the extent to which families, educators and early childhood education and care providers know about, understand and comply with their existing rights and responsibilities under the *Disability Discrimination Act (Cth) 1992*.

- Help parents and carers understand the rights of their child with disability;
- Give childcare providers greater certainty and clarity about their obligations regarding children with disability; and
- Support children with disability to access education in an early childhood education and care setting on the same basis as children without disabilities.

Terminology:

In this submission, Deaf Australia use 'deaf' in broad interpretation of all persons who have varying degree of deafness. The 'deaf' is all encompassing term that includes, deaf, Deaf, hard of hearing, and person with a hearing loss/ impairment.

The focus of the submission is not the capacity of person's hearing, but rather, the person's linguistic need to effectively participate in the community.

Deaf Australia's Response:

'By denying a child access to language development, it is a clear breach of their human right and can lead to damage'¹

Deaf Australia appreciates the opportunity to respond to the review of the *Disability Standards for Education (Cth) 2005* to consider extending the application of the standards to childcare providers.

Over 95% of deaf children are raised in families that have little or no prior knowledge of deafness and often are anxious about how to bring their deaf child up. Families ask wide ranging questions such as 'will s/he be able to communicate like us?' or 'will s/he be able to function well in the world?', or 'what if s/he can't respond to danger?' and so on.

Deaf Australia recognises that this common, and parents needs to be positively reassured. Their fears should be allayed in ways that focus on opportunity and growth through effective coordination of support across the sector right from the beginning.

For deaf people who use Auslan (Australian Sign Language), it is their primary or preferred language because Auslan is a visual language and is the most natural and accessible language for them.

The Australian Government recognises Auslan as a 'community language other than English².

Many deaf children and their families need Auslan language learning services and programs, however, these are not readily available due to inconsistent and inappropriate government policies and supports. Over the years, there have been entrenched/extensive supports for hearing services, at the expense of language learning programs and consequently, deaf children's language development has suffered³.

Most deaf people who use Auslan also demonstrate varying level of proficiency in English. There is evidence that when deaf children access Auslan early in life, their English proficiency is increased⁴.

¹ Professor Fernand De Varennes, a Special Rapporteur on Minority Issues, Office of the High Commissioner for Human Rights (UN, 2019).

² Dawkins, J, 'Australian's Language: The Australian Language and Literacy Policy' (Australian Government Printing Service, 1991).

³ Kyle Miers, 'NDIS – Community of Practice' (Deaf Australia, 2019).

⁴ S. Penicaud, D. Klein, R. Zatorre, 'Structural brain changes linked to delayed first language acquisition in congenitally deaf individuals' (2013).

It is necessary to understand three fundamental things:

1. A deaf child is deaf. What they hear with hearing aids and/or cochlear implants is not the same as what a non-deaf child naturally hears. Hearing aids and cochlear implants can provide access to some sound, but they do not 'cure' deafness, they do not provide full access to speech sounds; making deaf children more like non-deaf children with additional hearing devices alone to compensate for 'hearing loss' does not mean they will achieve academic outcomes similar to non-deaf peers⁵.
2. Speech is not the same thing as language. The ability to speak does not automatically result in fluent language and literacy skills. It is not possible to predict whether or not speech and listening programs will work well for any particular child. This means that while some deaf children can and do achieve good speech and language skills in the current speech and hearing services approach, many more do not; and
3. For natural language acquisition to occur, the child must be in an accessible language-rich environment. For deaf children to acquire fluent Auslan, this means their family also needs to learn Auslan so that they can provide this language-rich environment.

Many overseas research studies have shown that deaf children who acquire language fluency through use of a sign language as well as speech and listening services in the early developmental years have achieved positive cognitive growth, self-esteem and confidence throughout education and into adulthood⁶.

The current Australian practice of a speech and listening only approach towards deaf children amounts to language deprivation, which is associated with a lack of the language stimuli necessary for language acquisition processes in an individual⁷.

First Language Acquisition⁸

There is an important distinction between acquiring and learning a language. The former is a natural, subconscious process, during which the individual is unaware of grammatical rules.

During the first language acquisition, the children get a feel for what is correct and what is not, and in order to do so, they need to be exposed to a source of natural communication.

The emphasis is on the text of the communication and not on the form. Learning language, on the other hand, is not communicative. It is a result of direct instruction in the rules of language, and it is certainly not an age-appropriate activity for children in their first years of life.

In general, non-deaf children acquire their first language with comparative ease because they are constantly exposed to accessible, language-rich environments. Deaf children, however, face a greater challenge, as their natural first language may not be an oral language at all.

Recent findings emerging from the field of neuroscience have demonstrated that neural pathways in the brain make connections related to language development during a critical period of child development. MRI scanning has shown that if access to an appropriate language is delayed then the pathways do not connect in the usual way and do not produce the same level of flexibility that a person requires to develop appropriately fluent language. Neuroscience has indicated also that the brain does not discriminate regardless of whether language is signed or spoken validating that sign languages are legitimate languages for cognitive development.

The development of cognitive processing and language functional centres are directly related to a child's age of first language acquisition. If a deaf child is only exposed to a

⁵ Marc Marschark, 'Deaf Children are not Hearing Children who can't Hear' (Oxford University Press, (2014).

⁶ Christine Yoshinaga-Itano, 'Principle and Guidelines for Early Intervention after Confirming that a Child is Deaf or Hard of Hearing' (2013).

⁷ William Vicars, 'Deaf Children: Language Deprivation' (2000).

⁸ Karen Lloyd, 'Early Intervention & Education for Deaf and Hard of Hearing Children, Addressing challenges in pursuit of better outcomes' (Deaf Australia, 2013).

spoken language, even if they have assistive devices such as cochlear implants, then these neural pathways may never properly form, and they may never acquire native fluency in any language.

The Review

Deaf Australia notes that the review does not consider the need for family and/or carers to access programs to obtain support in order to effectively support their child in the formative years. It is our belief that the program needs to be holistic and include whole of family support rather than focussing on just the child.

Our lived experience tells us that the relationships between many deaf children and their families could have been improved when families understand the child's learning needs and how to accommodate those needs, rather than expecting the child to accommodate the norms.

To this end, Deaf Australia **proposes** that the Early Childhood programs should be extended to include parents as part of the learning process through structured supports to enable positive development for the child and the family.

Below are the key matters that need to be considered when extending the Education Standards into Childcare programs.

Key Matters:

1. Accessible curriculum and education programs

Many curriculum and education programs are not accessible due to deaf children's learning needs not being accommodated. Learning needs for deaf children are different from non-deaf children. Deaf children rely on visual communication, cues and other resources to support their learning needs in a natural environment.

Childcare in these circumstances needs to provide a stimulating learning environment through the use of visual resources and staff or mentors fluent in Auslan to allow deaf children to develop language in natural language learning processes.

Childcare can also provide extended programs for families of deaf children to learn Auslan in a child friendly environment and families can utilise NDIS funding for this purpose. To access this program, it would be appropriate to establish minimum requirements for staff to teach Auslan. The minimum requirement can be developed through consultation with Deaf Australia and members of the deaf community.

Whether the childcare program is managed privately or is a government service, the standards must be consistently applied across all childcare programs.

2. Reasonable adjustment

Reasonable adjustments in various situations are often inappropriate for deaf children as they do not meet the learning needs of deaf children. Increased standards must be considered to allow tangible outcomes for the child, rather than unsuitable obligatory requirements for providers (and failing to meet outcomes).

Standards to address minimum requirements such as employing trained staff in sign language (minimum certificate IV in Auslan) to provide natural learning environment.

3. National Disability Insurance Scheme

The National Disability Insurance Scheme (NDIS) offers families the opportunity for the deaf child to access Auslan language acquisition programs. However, the scheme does not provide support for childcare providers to include these language

acquisition programs in their service provision. These programs can be provided as a complementary service for families of deaf children.

4. United Nations Conventions

UN Conventions make specific provisions relevant to the need to include Auslan language learning in childcare programs, as set out below. We have underlined sections of key importance.

In reading these provisions, it is important to note that 'equal' does not mean 'same treatment', it means 'equal playing field'. (*Bold and underlines are emphasised*).

A. Rights of Children with Disabilities

Article 7

1. State Parties shall take all necessary measures to ensure the full enjoyment by children with disabilities of all human rights and fundamental freedoms on an equal basis with other children.
2. In all actions concerning children with disabilities, the best interest of the child shall be a primary consideration.
3. State Parties shall ensure that children with disabilities have the right to express their view freely on all matters affecting them, their views, being given in due weight in accordance with their age and maturity, on an equal basis with other children and to be provided with disability and age-appropriate assistance to realise that right.

B. Rights of Persons with Disabilities (CRPD)

Article 2 – Definition

"Language" includes spoken and **signed languages** and other forms of non-spoken languages.

Article 24 – Education

1. State Parties recognise the right of persons with disabilities to education. With a view to realising this right without discrimination and on the basis of equal opportunity, State Parties shall ensure an inclusive education system at all levels and lifelong learning directed to:
 - a. The full development of human potential and sense of dignity and self-worth, and the strengthening of respect for human rights, fundamental freedoms and human diversity;
 - b. The development of persons with disabilities of their personality, talents and creativity, as well as their mental and physical abilities, to their fullest potential;
 - c. Enabling persons with disabilities to participate effectively in a free society.
- 2 In realising this right, State Parties shall ensure that:
 - a. Persons with disabilities are not excluded from the general education system on the basis of disabilities, and that children with disabilities are not excluded from free and compulsory primary education, or from secondary education, on the basis of disability;

- b. Persons with disabilities can access an inclusive, quality and free primary education and secondary education on an equal basis with others in the communities in which they live;
 - c. Reasonable accommodation of the individual's requirements is provided;
 - d. Persons with disabilities receive the support required, within the general education system, to facilitate their effective education;
 - e. Effective individualised support measures are provided in environments that maximise academic and social development, consistent with the goal of full inclusion.
3. State Parties shall enable persons with disabilities to learn life and social development skills to facilitate their full and equal participation in education and as members of the community. To this end, State Parties shall take appropriate measure, including:
 - a. Facilitating the learning of Braille, alternative script, augmentative and alternative modes, means and formats of communication and orientation and mobility skills, and facilitating peer support and mentoring.
 - b. Facilitating the learning of sign language and the promotion of the linguistic identity of the deaf community;**
 - c. Ensuring that the education of persons, and in particular children, who are blind, deaf or deafblind, is delivered in the most appropriate languages and mode and means of communication for the individual, and in environments which maximise academic and social development.
4. In order to help ensure the realisation of this right, State Parties shall take appropriate measures to employ teachers, including teachers with disabilities, who are qualified in sign language and/or Braille, and to train professional and staff who work at all levels of education. Such training shall incorporate disability awareness and the use of appropriate augmentative and alternative modes, means and formats of communication, educational techniques and materials to support persons with disabilities.

C. Rights of the Child

Article 6 – Children have the right to live a full life. Governments should ensure that children survive and develop healthily.

Article 23 – Children who have any kind of disability should receive special care and support so they can live a full and independent life.

Article 28 – Children have the right to education.

Article 29 – Education should develop each child's personality and talents to the full. It should encourage children to respect their parents, their cultures and other cultures.

D. Universal Declaration of Human Rights

Article 7 – All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of the Declaration and against any incitement to such discrimination.

Article 26 (2) – Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms.

Issues and Considerations:

- A. Whether the childcare program is managed privately or is a government funded and/or operated service, the standards need to be consistently applied across all childcare programs to a greater degree where minimum standards are concerned and in compliance with the UN Conventions.
- B. Minimum standards are to be endorsed by the national consumer representative organisation and the childcare providers are to be committed in keeping their accreditation.
- C. Structured supports for both the deaf child and their family are to be part of the core service in the development of the child's educational, social and emotional wellbeing and self-identity.