

Submission to 2020 Review of the Disability Standards for Education (2005)

Introduction

Lifestart welcomes the opportunity to make a submission to the **2020 Review of the Disability Standards for Education 2005** (the Standards). As a provider of disability supports to children and young people predominantly in NSW, this submission reflects the stories that children and young people and their families/carers tell us, the experiences of our staff and our knowledge of the sector.

In providing this submission, we acknowledge that we work with individual education providers whose philosophy and practice supports every student's participation in daily school life. This usually comes from a belief in high expectations for students and attitudes of inclusion from the school leadership and community. Through collaboration with the student, families/carers and other supports, positive outcomes are achieved. These examples inform what is possible for students with disabilities. However this is not the experience of many families and students and there seems to be a long way to go before the required systemic changes in attitudes and practice can be achieved. Many families and students can still experience a range of barriers from education providers. Families are often unaware of their rights under the Standards.

Positive educational outcomes are critical to the future opportunities for participation for people with disabilities. Improvements to the Standards are therefore necessary to strengthen their impact and support systemic change.

About Lifestart

Lifestart is a not-for-profit organisation and registered charity. Our vision is that all children and young people can participate inclusively and meaningfully in their community. The work that Lifestart undertakes is governed by the founding principles of:

- The UN Convention on the Rights of Persons with Disabilities (2006) which recognises that people with disability have the right to access the same opportunities as all citizens with full and effective inclusion in society
- The UN Convention on the Rights of the Child (1989) which recognises that all children have the same rights and freedoms regardless of race, background, faith or disability
- The Disability Discrimination Act (1992) which makes disability discrimination unlawful and aims to promote equal rights, opportunity and access for people with disabilities.

Our clients

Lifestart supports children and young people aged 0-24 years living with a broad range of disabilities and their families and carers. In the past 12 months, we have supported more

than 10,000 children and young people. These supports are frequently provided within, or in collaboration with, education settings.

Our staff

Lifestart currently employs more than 150 specialist staff including speech pathologists, physiotherapists, occupational therapists, behaviour support practitioners, social workers, psychologists and educators. Our staff collaborate with and work within education settings on a daily basis.

Our services

- NDIS Registered Provider of Specialist Behaviour Supports, Therapeutic Supports and Early Childhood Supports.
- Prequalified provider for the NSW Department of Education Specialist Allied Health Service Provider scheme.
- Early Childhood Partner with the National Disability Insurance Agency (NDIA), delivering the Early Childhood Early Intervention (ECEI) approach (for children 0-6 years) in 5 regions of NSW, as well as online support to Partners in other states.
- Provider of Start Strong Pathways and Sector Capacity Building (Disability and Inclusion) programs funded by the NSW Department of Education.
- Belong INC and Speak Up projects for children and young people living with disability.

Scope and context of the Review

We acknowledge that the discussion paper for this review of the Standards notes that dialogue about inclusive education is out of the scope of the review. However Lifestart believes that the concepts of inclusion and inclusive education are integral to current policy and legislative frameworks in Australia and must be reflected in the Standards.

[The National Disability Strategy \(2011\)](#) clearly articulates that learning and skills is a priority area for improvement and reform. This priority area acknowledges the clear for high quality inclusive education as both a right and to facilitate positive lifelong outcomes for people with disability.

The National Disability Insurance Scheme (NDIS) is now available across Australia and supports people with a permanent and significant disability to participate in everyday activities. The largest age groups represented in the Scheme are children 0-6 years and 7-14 years. The NDIS comes with standards and regulations governed through the NDIS Quality and Safeguards Commission and audit processes. Although the intersections of the NDIS with other service systems is defined in the [Principles to Determine the Responsibilities of the NDIS and Other Service Systems](#), it has not led to a consistent approach for students with disabilities. There is an opportunity for the Standards to align more closely with those of the NDIS.

There is a growing expectation that strong, contemporary policy frameworks for inclusion and educational outcomes for students with disabilities are developed. State education departments are therefore continuing to amend and improve their policies and strategies for students with disabilities (see for example, the [NSW Education Disability Strategy](#)). As these policies and strategies reference the Standards and directly influence the educational practice for students with disabilities, it is imperative that the Standards clearly reflect current thinking about inclusive education and explicitly provide a framework for accountability.

In the area of Early Childhood Education, there have been significant changes in regulations and frameworks that inform the application of the Standards to these settings. The introduction of the National Quality Framework in 2012 not only provides a nationally consistent approach to early childhood education, it also provides an approved learning framework for all services. Over time this has lessened the distinction between preschools and kindergartens and other services such as long day care and family day care settings. In addition, there is strong evidence that participation in early learning is an important investment in a child's life and has a significant positive effect on future outcomes. The Standards should therefore be extended to cover all Early Childhood Education and Care settings to ensure that young children with disabilities and developmental delays are supported on the same basis as all children in their early learning environments.

Barriers to access and participation in education and training

Both research and anecdotal evidence suggest that barriers to participation in education still exist for children and young people with disability and that there has been little change since the implementation of the Standards in 2005 or in response to any of the subsequent reviews. We would particularly refer this Review to the following documents published since the previous 2015 review of the Standards:

- [Senate Standing Committee on Education and Employment: Access to real learning: the impact of policy, funding and culture on students with disability \(2016\)](#)
- [NSW Parliamentary Inquiry: Education of students with a disability or special needs in New South Wales \(2017\)](#)
- [CYDA National Education Survey: Time for change: The state of play for inclusion of students with disability \(2019\)](#)
- [Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability: Overview of responses to the first Education and Learning Issues paper \(2020\)](#)

Families supported by Lifestart and our staff frequently report continuing barriers and discriminatory practices in the following areas in particular:

a. Enrolment and access

Families seeking to enrol their child with a disability in mainstream school for the first time are frequently provided with information about alternative settings that may "better suit" their child. They may be told that:

- Their child will get better support in another setting
- The school does not have the resources to cater for their child's needs
- Their child may need to move schools later in their educational pathway.

In addition, families may be pressured to consider moving their child to a more segregated school setting at key transition points (for example, between early/late primary and on entering high school). They may also be asked to undertake further assessment for their child, and that an additional diagnosis that attracts greater funding is necessary for adequate support to continue.

Similar barriers may also be experienced in enrolment to educational settings other than schools. Examples include:

- Families having to attempt to enrol their child in several preschools/daycare centres as they are routinely "turned away" for a variety of reasons
- Preschools telling families that they have "reached their quota" for children with disabilities or that they cannot cater to the child's needs (for example, if a child is not toilet trained)
- ██████████ refusing to accept enrolments for young people with disabilities who may require behaviour support.

b. Participation

For a number of children and young people supported by Lifestart, participation in educational settings is impacted daily. Examples include:

- Students being excluded from sports carnivals, excursions, camps
- Students spending extended periods outside the classroom as a way of managing behaviour
- Students being excluded from NAPLAN testing
- A significant number of students with disabilities on partial attendance plans for extended periods of time with no plans to increase attendance time. This arrangement effectively reduces the resources that a school needs to provide to inclusively support a student
- Older students becoming disengaged from school due to repeated suspensions, where no proactive planning occurs for providing appropriate future supports and adjustments.

c. Supporting Students

Lifestart observes considerable variation in the extent to which educational settings provide the reasonable adjustments and supports needed for positive educational and social outcomes. School staff often express that although they are willing to do this, they do not feel confident enough in their skills and knowledge to make these adjustments. In addition, in NSW many decisions about resource allocation and collaboration rest with the leadership of individual schools. This leads to an inconsistent approach to supporting students across the school system. Examples of barriers in support for students include:

- Families taking no part in IEP meetings and having no awareness of whether their child/young person has an IEP or behaviour support plan
- Students having little or no involvement in their own plans
- External providers (for example, allied health professionals) being excluded from some schools
- Perceptions that a student should be placed in a different setting leading to a lack of collaboration in the current setting
- Insufficient time and resources for teachers and other school staff to participate in training
- Clear communication and collaboration with families about how adjustments could be made and that a funding allocation is not necessary in order for this to happen.

d. Compliance

Feedback from families and Lifestart staff indicates that compliance with the Standards is inconsistent and patchy. In particular, the terms reasonable adjustments and unjustifiable hardship require stronger and more detailed definition to facilitate inclusive and supportive planning for students.

While we acknowledge that there is currently recourse to address disability discrimination in education, our experience is that families are often not even aware of the Standards and the complaints process. For families where English is not their first language or those who experience lower literacy levels, the process is difficult to navigate and not transparent. Families generally do not wish to complain directly to a school as there is often the perception that this may have a negative effect on the support provided to their child or their ongoing enrolment in that educational setting. For similar reasons, families have also expressed that they are reluctant to complain to the Australian Human Rights Commission for fear of “rocking the boat” or that the education provider will not enter into the mediation process openly.

In addition, there have been past occasions when Lifestart staff have been excluded from visiting some schools for supporting families to exercise the rights of their children and young people under the Standards.

Awareness of the Standards

Most families of children and young people with disabilities that Lifestart has worked with over many years have no knowledge or awareness of the Standards. Disability providers and advocacy groups will usually support access to this information and in our experience, it is rare for families to receive it from education providers. This is an unfortunate barrier as the Standards could provide a foundation for positive collaboration between schools, families and students with disabilities rather than becoming a focus for adversarial action between parties when communication has already broken down.

While school staff are often aware of the Standards, school communities as a whole (including parent bodies) may not be aware of their collective obligation to inclusion for all students.

How could the Standards be improved?

1. Ensure the Standards are aligned to other policy and legislative frameworks in Australia.
2. Expand the scope of the Standards to include all Early Education and Care Settings.
3. Strengthen the definitions of reasonable adjustments and unjustifiable hardship and ensure they align with the principles and conventions on human rights and evidence for inclusive education.
4. Provide benchmarks for compliance with the standards that are evidence-based.
5. Provide and/or strengthen mechanisms for data collection, reporting and accountability against the Standards and ensure this information is publicly available.
6. Establish a framework to demonstrate and promote compliance with the Standards. Consideration could be given to accreditation or registration systems.
7. Continue to raise awareness of the Standards and their implementation through:
 - Providing easy read, audio and visual versions of the Standards, including as part of all enrolment packs for educational settings
 - Ensuring the Standards are available in a variety of languages and formats
 - Ensuring that Exemplars of Practice are current, evidence-based and easily accessible to all stakeholders and promoting good news stories about the Standards in action.
 - Promoting the Standards through pre-service training for all education professionals and through ongoing professional learning
 - Promoting the Standards through resources for school communities (for example P&C groups) and pre-school management committees.
8. Providing a helpline for families and students to support complaints and mediation processes.

References

Children and Young People with Disability Australia (2019) *Time for change: The state of play for inclusion of students with disability*

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Commonwealth of Australia (2011) *National Disability Strategy 2010–2020*

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https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Education_and_Employment/students_with_disability/Report

Council of Australian Governments (2015) *Principles to Determine the Responsibilities of the NDIS and Other Service Streams*

<https://www.coag.gov.au/sites/default/files/communique/NDIS-Principles-to-Determine-Responsibilities-NDIS-and-Other-Service.pdf>

NSW Department of Education (2019) Disability Strategy

<https://education.nsw.gov.au/teaching-and-learning/disability-learning-and-support/our-disability-strategy/disability-strategy>

NSW Parliament Legislative Council, Portfolio Committee (2017) *Education of students with a disability or special needs in New South Wales*

<https://www.parliament.nsw.gov.au/lcdocs/inquiries/2416/170921%20-%20Final%20report.pdf>

Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (2020) *Overview of responses to the first Education and Learning Issues paper*

<https://disability.royalcommission.gov.au/publications/education>

Contact person for this submission

Lifestart can provide further information about this submission and actual case studies regarding positive and negative experiences upon request. Please contact

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