# Stand Up For Your Rights:

# Primary and Secondary Education

## A guide to standing up for your child’s rights in primary and secondary education.



## About this guide

In this advocacy guide you will find information that will help you to identify and address barriers your child may encounter throughout their education due to their blindness or low vision.

You will find information on communication strategies, and skills you can use, to develop an organised approach to supporting your child and address barriers to education through advocacy. We also recommend your child learns to advocate on his or her own behalf as early as possible. The information provided will include an overview of State and Federal disability discrimination legislation that protects your rights to participation in all aspects of community life, who you can approach for assistance and the most effective ways to go about it.

In particular, this guide covers information on:

* What is advocacy?;
* Your rights and relevant laws, conventions or policies;
* Important self-advocacy skills to develop; and
* Strategies and practical steps for addressing barriers in accessing education.

The information contained in this guide is of a general nature only and does not address specific situations your child may encounter.

Please note: If you think your child’s safety might be at risk, do not rely solely on this guide. You should immediately seek the support of relevant authorities.

## What is advocacy?

Everyone has the right to participate equally in the community, and education is no exception. At times throughout their schooling, your child may experience barriers to his or her full participation and enjoyment and you may need to act to address these barriers. The action you take to address these barriers is known as advocacy.

You may find that many times, your advocacy will simply mean explaining what blindness or low vision means, and helping teachers or staff to understand the different ways that you or your child can take part in the life of the school. Other times, advocacy may involve ongoing communication and negotiation to get the best outcomes for your child.

## Know your rights in education

The United Nations Convention on the Rights of Persons with Disabilities recognises the rights of all people with disabilities to live independently, inclusively and with dignity in the community. There may be situations where your child’s rights as a person who is blind or has low vision are compromised. It is important for you to know your child’s rights so that you have an idea of what is possible, what is reasonable to expect and how your child’s needs may be met. Knowing the laws, policies and practices that are in place to protect your child’s rights will ensure you or your child can speak up if treated unfairly. These may include:

* The Disability Discrimination Act 1992 (Cth) and State disability discrimination legislation;
* Accessibility standards and guidelines; and
* Organisational policies and procedures that aim to address the needs of people with disabilities and other specific community groups.

The following sections of this guide provide details of the relevant laws, standards, and policies that apply specifically to education.

### The United Nations Convention on the Rights of Persons with Disabilities

Article 24 of the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) recognises education as a basic human right. Australia has ratified the Convention and policies and practices should be implemented having regard to these obligations under the Convention.

### The Disability Discrimination Act 1992

The Disability Discrimination Act 1992 (the DDA) is Commonwealth legislation which makes it unlawful to discriminate against a person with a disability.

The DDA defines two types of discrimination against a person with a disability: direct and indirect. Direct discrimination occurs when a person is ‘treated less favourably than a person without a disability’ (section 5), or when there is a failure to make reasonable adjustments. Disability discrimination can also occur indirectly (section 6) such as when a requirement is imposed which a person cannot meet because of their disability. There may also be indirect discrimination if a person with disability could meet the requirement if reasonable adjustments were made, and those adjustments are not made.

Section 22 of the DDA pertains to education. In addition to the DDA, there is also anti-discrimination legislation in each state and territory. It is best to seek legal advice on whether to lodge a complaint with the Commonwealth or state or territory discrimination commission.

### DDA Education Standards 2005

The DDA has specific Standards relating to education. The Standards outline the rights and responsibilities of education providers, and students and prospective students with a disability. Under the standards, your child has rights at all stages of education including:

* enrolment
* participation
* curriculum development
* accreditation and delivery
* support services
* eliminating harassment

The Standards cover all education provided by:

* Preschools and kindergartens
* Public and private schools
* Public education and training places, such as TAFE
* Private education and training places, such as private business colleges
* Universities
* Organisations that prepare or run training and education programs

The Standards outline how schools can enable students with disabilities to participate equally with other students.

## Reasonable adjustments

Your child has the right to reasonable adjustments to help him or her participate in education.

An adjustment is: ‘a measure or action taken to assist a student with a disability to participate in education and training on the same basis as other students.’

You have the right to seek an adjustment for your child at any stage of the education process. It is important to try to be aware of adjustments your child may need before beginning school so you have ideas on how to address any potential barriers before they may arise.

Examples of reasonable adjustments you could expect in education include:

* modifying educational premises, for example altering light and shade in the classroom, adding TGSIs, and markings to indicate approaching stairwells;
* modifying or providing equipment, for example adaptive technology or other aids;
* changing assessment procedures, for example ensuring that written exams are in an accessible format for all students, allowing alternative assessment methods, such as oral exams, or allowing additional time for independent completion or for someone else to write an assessment for the student;
* Changing course delivery, for example providing class notes or other materials in accessible formats, and necessary adjustments to classes such as physical education classes, art classes, home economics, and industrial technology classes to ensure inclusive learning for your child.

Under the standards, an adjustment is considered reasonable if it accommodates the student’s learning needs whilst also considering the interests of others, including the education provider, staff and other students.

When providing reasonable adjustments, the education provider needs to make sure that the curriculum and assessment still meets academic requirements while at the same time ensuring inclusive learning for your child.

### Consultation

You and your child have the right to be consulted on the need and type of any adjustments your child may require. It may also be necessary to engage professional expertise, such as orthoptists, ophthalmologists or adaptive technology consultants, to obtain a detailed assessment of the nature of your child’s disability and to determine the adjustment(s) that are appropriate for them.

### Unjustifiable hardship

The cost and benefit of adjustments may also be considered when determining whether an adjustment is reasonable and should be implemented.

An education provider may decide not to implement adjustments if providing the adjustment is too costly. This can be known as “unjustifiable hardship”.

The financial cost of providing reasonable adjustments is a key consideration, but a provider may also consider the health and safety of all involved and the impact of the adjustment on other students and staff.

You might find that it isn’t always clear what ‘unjustifiable hardship’ is, as it will depend on the circumstances of the school and the adjustments they need to make. Sometimes you might be able to find a compromise, and by helping the provider to understand the need for the adjustment they may do more to find ways to meet your child’s needs.

### Department of Education Guidelines

The Department of Education in each state and territory provides guidelines on how public and Department funded education providers will eliminate discrimination in education.

It is useful to be aware of the relevant guidelines in your state as you may be able to refer to these in your advocacy efforts or seek advice directly from the Department.

Under Department guidelines, you may also find out about any funding available for your child’s education, such as assistance provided for learning aids, equipment and supports, technology and infrastructure.

### Individual education plans

Many education providers will be able to develop an individual education or learning plan for your child. These individual plans may outline the adjustments required, who will be responsible for implementing these, and processes for review if/when necessary. You can speak with your education provider and request that you work together to create an individual education plan for your child.

## Individual responsibilities and skills

When undertaking advocacy to promote and protect your child’s rights, it is important to ensure you have taken responsibility for everything you may be able to address yourself.

### General education skills

There are some general personal skills that are useful for students in all stages of education which you should help your child to develop early. These include:

* Being able to identify his or her needs and ask for help
* Social skills
* Empathy
* Feeling good about themselves
* Feeling good about learning
* Finding ways to address bullying and ignorance
* Finding ways of engaging with others which do not include the use of vision

### Choosing the right school for your child

Before enrolling, you should research any schools you are interested in, by looking at their website, calling directly or by arranging a visit, to gain an insight into the school’s approach to inclusive education and to learn what disability support and assistance is available.

Knowing what adjustments an education provider may offer, such as aides, curriculum support, infrastructure and technology will also help you make an informed choice about your child’s education. Some education related adjustments may be required before your child begins school, so knowing what is available earlier will help to avoid delays.

Some useful questions to help you find out whether the school is right for you include:

* Does your school have an inclusion or access policy?
* Are there/have there been other students with disability in the school and what have you done to accommodate their needs?
* What is your school’s approach to additional needs during breaks and in subjects like physical education and art?
* What is your school’s process for responding to requests for adjustments?

### Disclosure and expressing your child’s needs

Disclosure means telling the education provider that your child has a disability. Students can choose whether to disclose their disability or not. However, disclosure will likely be required at some point if adjustments are required to undertake tasks. You should consider how, when and to whom you wish to disclose.

Disclosure can be seen as a means for having your child’s educational needs met, in which case you may only disclose to those involved in providing adjustments. It can also be seen as an opportunity to raise awareness of blindness and low vision more generally as part of your child’s development, in which case you may like to find ways of sharing information with your child’s class and others at the school.

You and your child (either with your assistance or independently) will be more effective at negotiating education related adjustments if you are both knowledgeable about your child’s vision condition. It is not necessary to disclose detailed medical or personal information about the vision condition. Instead, you should focus on what your child can do with the appropriate adjustments or supports to access the built environment, services and facilities of the school, the learning and assessment requirements of the course and any social or recreation activities your child would like to participate in.

### Communication Skills

As you or your child may go to the school or place of education over several years, it can be helpful to develop strong communication with teachers and staff, so that they feel comfortable raising concerns with you, and seeking your advice to make reasonable adjustments for your child’s needs. Once you forge a partnership with them, it becomes much easier to advocate for the best outcomes.

To be an effective advocate, you need to be able to communicate clearly and be able to be proactive, assertive and firm while also being polite, respectful and patient. It is also useful to consider the impression your language portrays. Using positive language to express your views like “inclusion”, “participation” and “access” may be more influential than using language like “discrimination”, “disadvantage” and “exclusion”, even if it is these circumstances you are trying to address.

When advocating for your child’s needs, it is important to not be so focussed on what you want to say that you do not hear what is being said to you. By listening to others, you can gain a better understanding of the situation, which will help you determine further action you may need to take. If you are becoming frustrated with a situation, be mindful not to come across too aggressively; staying calm and focused is more likely to get you a considered hearing and keep the lines of communication open.

### Put yourself in other people’s shoes

When advocating for change, empathy is a powerful tool. It is not only useful to try to make someone see things from your point of view, but for you to see things from their point of view.

Teachers and administrators have a lot of competing pressures they need to address at their school, and they won’t always understand the need for, or the importance of the adjustments your child may need. By understanding what these limitations might be, you can find some common ground. Empathy in this situation will help you to overcome the barriers and get a better outcome for your child.

### Building relationships

Building relationships is a great way to maximise learning outcomes and success in education.

Getting to know your child’s teachers is the best place to start. If your child requires any adjustments or other supports in the classroom, they will be responsible for implementing these and monitoring your child’s progress, so it’s important to have a productive relationship with your child’s teachers, both for you to feel comfortable to check in on a regular basis and for them to be able to raise any concerns with you.

It is also useful to identify other relevant staff who can influence and support your child’s inclusion in education. In pre-school, primary and secondary schools, this is usually staff in student support and wellbeing roles. Their role is to provide assistance to students to manage studies and to provide and support you to find relevant information for any education related supports. They may also be able to help you to work with your child’s teachers to reach their educational goals.

### Establishing the support system

As well as having productive relationships with staff at the school, it is beneficial to have some formal systems in place for identifying and addressing your child’s needs and to monitor their progress.

The most common and effective ways of doing this are:

* Establishing student support groups which bring together everyone involved in your child’s education on a regular basis to discuss your child’s needs, how your child can be supported, who will be responsible and means for monitoring and reviewing all of this activity;
* Developing an individual learning plan which outlines your child’s education goals and the activities you, your child and the school will do to achieve these. You should agree to a process for monitoring and reviewing this plan throughout your child’s education.

### Work towards an outcome

Before you take any action, you should consider what exactly it is that you would like to achieve. You might reflect on the barrier in the current situation and what the ideal situation is. This will help you determine exactly what you need to do to influence change. It will also help to keep the focus on the positive rather than dwelling on problems in the current situation.

### Avoid stereotypes and assumptions

While you are the expert in your child’s vision condition and the changes which you think need to be made for education to be accessible to your child, it is important to avoid perpetuating stereotypes and assumptions which are made about providing access to education for all people who are blind or have low vision.

When you propose solutions to the barriers your child encounters in accessing education, it is helpful to be clear that these solutions would benefit your child, and perhaps others, but it is best not to claim that these solutions will provide access for all. In some instances, you may risk proposing solutions which may not adhere to existing Australian Standards or Guidelines (such as the standards and guidelines referred to above) and may not be a workable solution for everyone.

### Tenacity and resilience

Your child may encounter many barriers throughout his or her education, and realistically, you will not be able to invest energy into every issue you would like to address. Therefore, picking your battles and thinking about what efforts are needed is important to ensure you have the resources, resilience, and patience to commit to the effort. In any context, advocacy can take a lot of time, energy and persistence, so you should make your choice about where to invest your efforts, thinking about which changes are likely to result in achieving the most impact, and what might be ‘quick wins’ which result in immediate (but not long term) change.

This is especially so during the first few months of a new school. As you apply the tools above, and your relationship with the education provider becomes stronger, you might find that it is easier to address some issues you had to put aside earlier on.

### Be prepared and keep notes

Good preparation is an essential element in assisting you to be assertive and feel more confident in advocating for your child’s needs. It is essential to have a reliable means of keeping records of experiences, ideas, conversations and decisions. Making personal notes as soon as possible after significant meetings and conversations is a good habit to get into to ensure you have an accurate record of what was said or what was agreed to at the time. It can be difficult to remember specific details after time has passed. It is also a good idea to keep a ‘timeline summary record’ of all significant conversations, emails and meetings you have had over time to enable you to recall events in their right order, should you need to do so. This can also help you to clarify the most important issues to address in your ongoing advocacy efforts. Good record keeping is important should you wish to escalate the matter to senior personnel (school principals, education department representatives) or lodge a formal complaint in the future.

## How can you promote your child’s right to participate in education?

### Raising concerns

If your child faces any barriers to his or her participation in school, you should raise concerns as early as possible to ensure they can be addressed quickly and learning outcomes are not negatively affected. Often issues are more easily and quickly addressed when they first emerge than when they have already escalated to more serious and entrenched problems.

We recommend you encourage your child to know his or her own needs and what should be happening in the classroom and at school generally to support their learning. This will enable them to speak up for themselves in the moment and concerns can be addressed immediately.

You can raise more serious or ongoing concerns by speaking with those directly involved, such as your child’s teachers. It’s helpful to have these discussions with an outcome in mind and any ideas you may have for change.

Keep in mind both your rights and what is expected of both your child as a student and the school. This will help you to be realistic and understand the benefits and consequences of any proposed changes. At this point, it may be appropriate to ask for or review reasonable adjustments.

You may choose to have this discussion in person or in writing. Either way, any proposed or agreed changes should eventually be recorded in writing so you may refer to these in the future if required. You could do this by sending a follow up email confirming what has been discussed and agreed to.

After you have raised your concerns with those involved, it is useful to let anyone who supports you, such as school support staff or your child’s specialists, know about the discussion and any outcomes reached.

### Maintaining productive relationships

Since your child is likely to continue to attend school while issues are being addressed, it is in the interests of all to ensure that the relationship between you and the school remains productive. Although you should not be passive when a serious barrier prevents your child from participating fully in his or her education, you should also aim to avoid conflict which might damage the potential to work together to enable change.

An assertive approach lies between being too passive at one end of the scale and too aggressive at the other. Whenever possible, you should aim to be assertive, advocating to ensure your child’s needs are addressed while also considering and respecting the interests of others.

### Formal complaints

If any barriers to full participation continue and you have raised your concerns to those directly involved, such as your child’s teacher, support staff, and school principal, and any other relevant stakeholders, you may need to consider making a formal complaint to the education provider. This would first be to the local or regional office, and if still unresolved, to the head office in your state or territory. The process for making a complaint will be on the websites of each Education Department. These websites are listed in the “Related resources” section at the end of this guide. Knowing your child’s and the provider’s rights and responsibilities is essential for you to have a successful outcome from a formal complaint.

Your formal complaint should be made in writing and should cover:

* Details of the current situation;
* The barrier the current situation poses to your child’s full participation;
* Details of your attempts to address the barrier through means other than by formal complaint; and
* The outcome you are seeking.

You may also choose to highlight something in the current situation that is working for your child to show how participation and inclusion is possible.To reach a successful outcome, it is important to make your complaint in a way that shows that you are reasonable and willing to work with the school to enable change. To do this, it is helpful to prepare your complaint at a time when you are not too emotional and have been able to consider potential options for change. It may be useful to have someone you trust who is independent of the situation to review your complaint before you send it.

In most cases, the Department will expect that you have made all attempts at resolving the complaint at the school level before escalating it. An alternative to contacting the education provider is to contact the relevant Ombudsman.

### Complaints to the Australian Human Rights Commission

Often successful advocacy occurs without the need to lodge a discrimination complaint to the Australian Human Rights Commission (AHRC).

However, if your education provider is not fulfilling their obligations under the DDA and Standards, you have tried all avenues to reach an outcome and you are still encountering barriers to participation, you may consider making a formal complaint to the AHRC.

It is useful to seek advice from an independent advocate about making a formal complaint in this way. Information about this process can be obtained by contacting Vision Australia’s Advocacy team or the AHRC.

## Related resources

#### Vision Australia National Call Centre

Telephone: 1300 847 466

Email: info@visionaustralia.org

For information on self-advocacy strategies or to obtain this guide in another format, call Vision Australia’s advocacy team on 1300 847 466 or email advocacy@visionaustralia.org

#### Australian Human Rights Commission (AHRC)

National Information Service: 1300 656 419

Email: infoservice@humanrights.gov.au

Web: https://www.humanrights.gov.au/complaint-information

#### Anti-Discrimination Commission Queensland (ADCQ)

Statewide telephone information and enquiry line: 1300 130 670

Web: https://www.adcq.qld.gov.au/contact-us

#### Victorian Equal Opportunity and Human Rights Commission (VEOHRC)

Enquiry Line: 1300 292 153

Web: http://www.humanrightscommission.vic.gov.au/making-a-complaint

#### Equal Opportunity Commission (WA)

Ph 08 9216 3900

Email: eoc@eoc.wa.gov.au

Web: http://www.eoc.wa.gov.au/complaints-inquiries/making-a-complaint

#### Anti-Discrimination Board NSW

Ph: 02 9268 5544 between 9am – 1pm and 2pm – 4pm

Email: adbcontact@justice.nsw.gov.au

Email: complaintsadb@justice.nsw.gov.au

Web: http://www.antidiscrimination.justice.nsw.gov.au/Pages/adb1\_makingacomplaint/adb1\_makingacomplaint.aspx

#### ACT Human Rights Commission

Ph: 02 6205 2222

Email: human.rights@act.gov.au

Web: http://hrc.act.gov.au/

#### Northern Territory Anti-Discrimination Commission

Ph: 1800 813 846

Email: antidiscrimination@nt.gov.au

Web: http://www.adc.nt.gov.au/index.html

#### Equal Opportunity Commission (SA)

Ph: 08 8207 1977 between 10am – 3pm

Email: eoc@agd.sa.gov.au

Web: http://www.eoc.sa.gov.au/eo-you/making-complaint

#### Equal Opportunity Tasmania

Ph: 03 6165 7515

Email: office@equalopportunity.tas.gov.au

Web: http://equalopportunity.tas.gov.au/complaints

### Websites for Education Departments

#### Commonwealth Department of Education and Training

https://www.education.gov.au

#### ACT

https://www.education.act.gov.au

#### New South Wales

http://www.dec.nsw.gov.au/

#### Northern Territory

https://education.nt.gov.au

#### Queensland

http://education.qld.gov.au/

#### South Australia

https://www.decd.sa.gov.au

#### Tasmania

https://www.education.tas.gov.au

#### Victoria

www.education.vic.

#### Western Australia

https://www.education.wa.edu.au