

Information sheet

School discipline decisions – considering individual circumstances for students with disability

Principals and teachers need to make sure that decisions about discipline at school are fair, balanced and ethical. These decisions can have serious effect on the student and their family, including their human rights.

A student's individual circumstances can include their behaviour history, disability, mental health and wellbeing, religious and cultural background, home environment and care arrangements.

It is important to show that the circumstances of the student have been considered before decisions are made.

Who is included in the definition of disability?

All Department of Education (DoE) employees must comply with the *Disability Discrimination Act 1992* (Cwth) (DDA). This Act ensures equitable treatment for people with disability, including students in Queensland state schools.

A student is considered to have a disability if they meet the definition outlined in the DDA. These students are included in the Nationally Consistent Collection of Data on school students with disability (NCCD). Information about the NCCD can be accessed at www.nccd.edu.au.

For more information on disability and reasonable adjustments in education, please see [Students with disability – professional learning](#) (DoE employees only).

Does the *Student discipline procedure* apply to students with disability?

Yes, the *Student discipline procedure* applies to all students enrolled in Queensland state schools.

The procedure directs principals to make sure the individual circumstances of all students are considered and supported. This means principals have a legal obligation to make fair and ethical decisions.

Student Code of Conduct

The [Student Code of Conduct](#) explains each school's approach to supporting high standards of behaviour from every student, including students with disability.

Each school's [Student Code of Conduct](#) is developed jointly with students, staff and parents. Developing it together means everyone understands the different needs of students and the different responses required for student behaviour.

As part of every [Student Code of Conduct](#), staff must consider individual circumstances, such as disability, when making decisions about student behaviour.

This helps staff and parents clearly understand that it falls to the school to ensure that a student with disability is not discriminated against. The school must make changes to any procedures or practices – such as the [Student Code of Conduct](#) – that may deliberately or inadvertently discriminate against a student with disability.

School disciplinary absence

Principals can apply a school disciplinary absence (SDA) – including suspension or exclusion – to any student enrolled at school. An SDA may be used by a principal if they consider the behaviour of a student, whether at school, after school hours or on the weekend, meets one of the grounds specified in the *Education (General Provisions) Act 2006* (Qld).

SDA decisions are taken very seriously by principals, and are usually only used for behaviour that is very disruptive, dangerous and/or harmful. The use of SDAs must be outlined in the school's [Student Code of Conduct](#), with supporting information about when they may be used and the support available to help students meet the expectations of the school.

However, schools are not permitted to use automatic suspensions nor exclusions for any student behaviour. An SDA is just one option for responding to student behaviour. Flexibility means that schools can use measures that best meet the needs of the student involved, the incident and the desired outcome.

For more information on SDAs, please see the [Student discipline procedure](#).

Aren't we meant to be treating everyone the same?

No, we're not. Equity means making sure every student has the support they need to be successful.

SDAs or rules that are applied to everyone may be unfair to students with disability. Treating everyone the same can sometimes be inadvertently discriminatory. For example, it would be inappropriate to apply the standard response to swearing if the student had Tourette Syndrome.

Students must be treated as individuals, and disciplinary decisions made using the known facts and circumstances for the student and the particular incident. Even when misbehaviour seems the same or multiple students are doing the same thing, the specific circumstances of each student determine what action is taken. Principals need to consider these personal elements so that their decision is fair, balanced and ethical.

Schools need to make sure that reasonable adjustments are in place, with suitable supports, for students with disability so they may access and participate on the same basis as their other students.

How do I take disability into account with school discipline decisions?

The Disability Standards for Education 2005 (Cwth) (DSE) explain how the DDA applies to school settings. It provides direction for enrolment, reasonable adjustments, participation in education, curriculum standards, support services, strategies and programs to prevent harassment or victimisation of a student with disability.

For more information, visit [Disability Standards for Education](#).

There is no specific guidance in the DSE explaining how to take account of disability when making decisions about student discipline.

The following suggested steps are based on the three main obligations for education providers identified in the DSE:

- consultation
- reasonable adjustments
- elimination of harassment and victimisation.

To help make this resource practical, consider how you might deal with behaviour associated with a disability, such as vocal tics that include compulsive swearing or involuntary verbal outbursts offensive to others.

1. What consultation has occurred and when?

The DSE states that school staff must consult to understand the affect and adjustments needed to support a student with disability. This remains an ongoing obligation while the student is enrolled at the school.

Documenting this consultation and the agreed outcomes is important. The information might be recorded in an Individual Learning Plan or Individual Behaviour Support Plan.

Consulting around behaviours of concern for a student with disability may include:

- talking with the student and their family members or carers to get ideas about what assistance is needed
- gathering information on strategies that have been successful in the past for preventing or addressing the behaviour
- identifying strategies that have not been successful, or have escalated the behaviour and making sure this information is shared and understood by all staff
- discussing ways to overcome the barriers and the adjustments in the school that affect the behaviour
- providing advice in writing about the issues discussed with the student and their family members or carers and the decisions made, including specifying a date for notifying them about what adjustments will or will not be made
- meeting regularly to check on progress, noting any changes needed, and keeping records of these meetings.

2. What reasonable adjustments have been agreed to, are they in place and when were they last reviewed?

The DSE explains that an adjustment is a measure or action taken to help a student with disability participate in education on the same basis as other students. It is a reasonable adjustment if it achieves this purpose while considering the student's learning needs and balancing the interests of everyone affected, including the student with disability, the school, staff and other students.

DoE has lots of information and a range of specialist coaches, guidance officers, therapists and nurses who can advise schools about reasonable adjustments.

Showing that you have made reasonable adjustments to support behaviours of concern for a student with disability includes:



- deciding whether an adjustment is necessary to enable the student to access and participate in their education program on the same basis as other students (e.g. school camps, speech nights, dances, fetes)
- identifying the suitable reasonable adjustment needed for the student to access and participate on the same basis as other students in class or whole school behaviour systems, such as additional pre-teaching or pre-correction of expected behaviours and more frequent reinforcement or feedback
- documenting the agreed reasonable adjustments and monitoring their implementation
- making the reasonable adjustments
- ensuring strategies are being implemented appropriately and collecting data to inform any changes.

3. How can we ensure the disciplinary response is fair and equitable?

Care must be taken to ensure that behaviours of concern displayed by a student with disability do not receive inappropriate or unfair responses from staff where there is clear evidence the behaviour is a symptom of the disability.

For example, repeated suspensions may be seen as harassment or victimisation if there is a question about the cause of the behaviour and the effectiveness of any reasonable adjustments.

The DSE requires reasonable steps be taken to ensure staff and students are informed about:

- the obligation not to harass or victimise students with disability, or their associates (e.g. friends, peers, family)
- the appropriate action to be taken if harassment or victimisation occurs
- complaint mechanisms available to a student who is harassed or victimised in relation to a disability of the student or of an associate of the student.

Resources

Department of Education — Inclusive education
<https://education.qld.gov.au/students/inclusive-education>

Department of Education — Complaints
<https://www.qld.gov.au/education/schools/information/contact/complaint>

Queensland Ombudsman
<https://www.ombudsman.qld.gov.au/how-to-complain/complaints-process/common-complaints/state-schools>

