

Practice Guide

Compliance and Legislation – Preventing Discrimination, Harassment and Victimisation

Overview

This document outlines how a registered training organisation (RTO) can develop policies, procedures and practices to eliminate barriers and discrimination and build inclusive approaches to training and assessment.

What is discrimination and victimisation?

According to the *Disability Discrimination Act 1992 (Cth) (DDA)*, disability discrimination occurs when a person with disability is treated less favourably than a person without disability in the same or similar circumstances.

For example, it could be direct disability discrimination if an RTO refuses enrolment in a course because the student has disability.

It is also disability discrimination when a rule or policy operates the same for everyone but has an unfair effect on people with disability. For example it may be *indirect disability discrimination* if:

- the only way to enter the RTO site is by a set of stairs. A student who uses a wheelchair would be unable to enter the building to participate in education and training.
- the RTO did not provide any reasonable adjustments, stating that it believes the training and assessment resources are fully inclusive.

The DDA makes it unlawful to treat learners with disability unfairly.

This applies whether the student's disability occurred in the past, may develop in the future or is imputed (i.e., undiagnosed disability that is believed to be having a functional impact on learning).

The student's associates (relatives, friends and carers) are also protected by the DDA if they are treated unfairly as a result of their association with the student with disability.

Why should we eliminate discrimination and victimisation?

The *Disability Standards for Education 2005 (Cth) (DSE)* require education providers to develop and implement strategies and programs to prevent harassment or victimisation of students with disability. This means all staff have a responsibility to ensure that appropriate standards of behaviour are maintained in all aspects of their work.

The DDA states that an education provider can be held liable for harassment and discrimination as a result of the action or inaction of any of its staff members.

RTOs must make a commitment to eliminating discrimination and victimisation. By doing so they are supporting the attainment of human rights for everyone.

RTO responsibilities

To support students with disability, RTOs have a responsibility to:

- provide staff with ongoing training and professional development on disability awareness and inclusive education.
- have policies and procedures to promote equity and inclusion, and protect students with disability from discrimination, harassment and victimisation.
- develop policies and procedures that support procurement of accessible resources, equipment, furniture and products etc.
- embed accessibility, usability and inclusive practices when designing, developing and implementing training and assessment and other initiatives.
- have an appropriate budget allocation to support initiatives across the organisation to maintain accessibility, usability and inclusion.
- take reasonable steps to ensure that staff and students are informed about:
 - the DDA and the DSE
 - the obligation to not harass or victimise students with disability, or their associates
 - the appropriate actions to take if discrimination, harassment or victimisation occurs
 - complaint mechanisms available to a student or their associate who experiences discrimination, harassment or victimisation on the basis of disability
 - any changes to the legislation.
- ensure anyone operating under a third-party arrangement with the RTO has an agreed strategy of how they will meet these responsibilities.

Vocational education and training (VET) staff responsibilities

As an employee or contractor of an RTO, you have a responsibility to:

- engage in ongoing training and professional development about disability awareness and inclusive education
- liaise with disability professionals who can provide specialist advice on disability-related issues
- become familiar with your RTO's policy on harassment and discrimination
- make sure the staff and students you supervise understand their rights and responsibilities
- provide information to students about rights and complaint mechanisms
- ensure that colleagues and students maintain acceptable standards of conduct
- take early corrective action to deal with behaviours that may be offensive or intimidating
- consult with students and their associates
- respond to all complaints promptly, fairly, sensitively and in line with the RTO's policies and procedures
- promote a more tolerant culture by actively celebrating diversity.

Trainer and assessor (and curriculum developer) responsibilities

As a trainer or assessor of an RTO, you have a responsibility to:

- be responsive to requests for support or reasonable adjustment
- consider using universal design for learning to design, develop and implement training
- ensure learning and teaching materials are accessible, usable and inclusive
- prepare for different modes of engagement to anticipate diversity of need.

Personal responsibilities

In **your personal behaviour**, respect the rights of others. Do not become involved in or encourage discrimination, harassment or victimisation. Be mindful of:

- judgement – always be objective in your decision-making
- words and tone
- stereotypical or ableist language

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- jokes, pictures, cartoons, verses, gestures that may be inappropriate, stereotypical or offensive
 - isolating or segregating others through words or actions.

Practice considerations and checkpoints

- Capture your commitment to eliminating discrimination, harassment, and victimisation in action plans. (e.g., Disability Access and Inclusion Plans, Disability Action Plans or Diversity and Inclusion Plans).
- Implement access and equity policies and procedures to drive inclusive and responsive practices across the organisation.
- Provide professional learning about disability awareness, inclusive education and training, and equity practices for all staff.

Links to the relevant legislation and standards to meet RTO obligations

[Disability Discrimination Act 1992 \(Cth\) \(DDA\)](#)

The DDA makes it unlawful to discriminate against a person on the basis of disability in education.

[Disability Standards for Education 2005 \(Cth\) \(DSE\)](#)

Standards for harassment and victimisation – Part 8: An education provider must develop and implement strategies and programs to prevent harassment or victimisation of a student with disability, or a student who has an associate with disability, in relation to the disability.

[Standards for Registered Training Organisations \(RTOs\) 2015 \(Cth\)](#)

Having a proactive approach to eliminating discrimination and victimisation and increasing inclusive practice can help develop your accountability to:

- **Standard 1:** The RTO's training and assessment strategies and practices are responsive to industry and learner needs and meet the requirements of training packages and VET accredited courses.
- **Standard 4:** Accurate and accessible information about an RTO, its services and performance is available to inform prospective and current learners and clients.
- **Standard 5:** Each learner is properly informed and protected.
- **Standard 8:** The RTO cooperates with the VET Regulator and is legally compliant at all times.

Please note: RTOs registered by the *Victorian Registration and Qualifications Authority* or the *Training Accreditation Council Western Australia* may refer to the following websites for requirements specific to you.

[Victorian Registration and Qualifications Authority](#)

[Training Accreditation Council Western Australia](#)

Benefits

- Student – being able to pursue pathways of choice without barriers, harassment, victimisation or discrimination.
- Trainer and assessor – feeling confident in providing accessible and inclusive training and assessment that benefits all students.
- RTO – demonstrating compliance and can celebrate their inclusiveness.

Training and resources

- [Know Your Rights: Disability Discrimination | Australian Human Rights Commission](#)
- [Disability Standards for Education 2005 – Department of Education](#)
- [Fact Sheet for RTOs: Providing Quality Training and Assessment Services to Students with Disabilities](#)
- [Legislative Framework](#)
- Disability Awareness eLearning: [VET Staff Supporting Students with Disability](#) and [VET Educators Supporting Students with Disability](#)

Disclaimer

The ‘supporting students with disability resources’ provide guidance on legislation and policy for Registered Training Organisations (RTOs) regarding vocational education and training for students with disability, but they should not be considered legal advice or impose additional legal obligations. RTOs should seek tailored legal advice to understand their specific obligations. More information on this disclaimer can be found at adcet.edu.au/vet/disclaimer or by contacting the [Department of Employment and Workplace Relations](#).