Strengthening the Disability Discrimination Act for children and young people with disability

A submission by Children and Young People with Disability Australia to the Attorney-General's review of the Disability Discrimination Act

"I would feel like I'm part of that community… and not set aside."

Young person with disability, CYDA DDA review focus group, September 2025

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A note on terminology:

Throughout this submission, Children and Young People with Disability Australia (CYDA) uses person-first language, e.g., person with disability. However, CYDA recognises many people with disability choose to use identity-first language, e.g., disabled person.

Content warning: This submission *references ableism, disability discrimination, racism, harassment and vilification.*

Acknowledgements:

Children and Young People with Disability Australia would like to acknowledge the Traditional Custodians of the Lands on which this report has been written, reviewed and produced, whose cultures and customs have nurtured and continue to nurture this Land since the Dreamtime. We pay our respects to their Elders past and present. This is, was, and always will be Aboriginal Land.

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- Adding a provision that the Act should be expressly interpreted in the most beneficial way for people with disability, consistent with Australia's human rights obligations.
- Incorporating the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) in the Act's objects provision and aligning language and terminology to its standards.
- Reviewing all language and terminology in the Act and guidance materials using anti-ableist criteria.

Recommendation 2: Redefine disability and incorporate language which is:

- Strengths based
- In line with the social and human rights models of disability.

Recommendation 3: CYDA calls for the introduction of a positive duty in the Disability Discrimination Act to ensure children and young people with disability can access inclusive, safe and equitable opportunities without needing to initiate complaints. This should:

- Require all duty holders in child and youth-facing sectors (including but not limited to; education, health, and community services) to take proactive and proportionate steps to identify and remove barriers to inclusion impacting children and young people with disability.
- Incorporate both educational and enforcement mechanisms, and
- Resource the Australian Human Rights Commission to provide tailored guidance, monitoring, and enforcement that prioritises early intervention and protects the rights of children and young people with disability across all settings.

Recommendation 4: CYDA calls for the following amendments to strengthen the rights of children and young people with disability in employment, education, and other areas of public life:

- Remove the term "reasonable" and create a standalone duty with additional accountability for adjustments in employment, education and other areas of public life.

- Ensure the definition and processes of unjustifiable hardship include clarity, balance between rights and responsibilities, consultation and accountability.
- Broaden the use of inherent requirements to include education settings and providing additional processes for determining inherent requirements of a job or course that incorporate consultation with people with disability.
- Clearer definition and additional accountability for exclusionary discipline practices including conditions which must be met before and after these practices occur and a mechanism for appeal.

Recommendation 5: To safeguard the Disability Discrimination Act into the future, CYDA recommends widening its scope and modernising its provisions to reflect a contemporary application. This includes:

- Extending the definition of “service” in policing to include interactions with people with disability suspected of a crime.
- Referencing the National Principles for Assistance animals
- Establishing a framework for Disability Action Plans which:
    - Sets minimum standards and gives the Australian Human Rights Commission the ability to reject action plans.
    - Embeds co-design and lived experience
    - Provides guidance templates and a framework for Disability Action Plans
    - Implements accountability and enforcement measures.

Introduction

Children and Young People with Disability Australia (CYDA) is the national representative organisation for children and young people with disability aged 0 to 25 years. CYDA has extensive national networks of young people with disability, families and caregivers of children with disability, and advocacy and community organisations.

Our vision is that children and young people with disability in Australia will fully exercise their rights, realise their aspirations and thrive in all communities. We do this by:

- Raising community attitudes and expectations
- Championing initiatives that promote the best start in the early years for children with disability, and their families and caregivers
- Leading social change to transform education systems to be inclusive at all points across life stages
- Advocating for systems that facilitate successful life transitions to adulthood
- Leading innovative initiatives to ensure the sustainability and impact of the organisation and the broader sector.

CYDA welcomes the opportunity to provide a response to The Attorney-General's Department's consultation paper on the *Disability Discrimination Act 1992 (Cth)* (Disability Discrimination Act) Review.

This submission is shaped by evidence from the following sources:

CYDA online focus group about the Disability Discrimination Act review, held on 17 September 2025. This group included ten participants who are young people with disability (16-25 years). Direct quotes are attributed using the abbreviation 'DDA focus group'.

CYDA surveyed nine young people with disability (15-25 years) about the Disability Discrimination Act review in September. Direct quotes are attributed using the abbreviation 'CYDA Disability Discrimination Act Survey 2025'

We have also drawn on the following earlier data collection activities:

- Time for Change Policy Forum March 2025
- CYDA Education Survey 2024
- CYDA Education Survey 2023
- National Youth Disability Summits 2020 to 2023
- LivedX focus group papers 2021

Additionally, our submission was shaped by CYDA staff, the majority of whom have personal and/or family experience of disability. For a full list of previous submissions relevant to this submission see appendix 1.

Direct quotes in this submission are drawn from the findings of the consultation with young people, families and caregivers. Quotes are indented from main text, italicised and in inverted commas, anonymised (or pseudonyms used) to protect privacy and minimally modified for brevity and/or clarity.

Submission structure

The submission is structured in five parts. Each part leads with our recommendations and is followed by a more detailed response to justify the recommendation. Rather than addressing all 51 questions of the consultation paper, we focus on specific areas of our expertise as follows:

Part 1 outlines CYDA's 'vision' for a Disability Discrimination Act that is sufficiently strengthened to align with human rights and anti-ableist framing. This part addresses (questions 10, 11, 49 and 51).

Part 2 addresses the section of the consultation paper: *Understandings of disability and disability discrimination* (questions 1 and 2 from the consultation paper).

Part 3 addresses the section of the consultation paper: *Positive duty to eliminate discrimination* (questions 12-14).

Part 4 addresses the section of the consultation paper: *Inclusion of people with disability in employment, education and other areas of public life* (questions 16-26).

Part 5 addresses the sections of the consultation paper on *Access to justice* and *Modernisation of the Disability Discrimination Act.*

Part 1: Realising the human rights of children and young people with disability

Part 1 of the submission includes two sections. The first section discusses the alignment of the *Disability Discrimination Act 1992 (Cth) (Disability Discrimination Act)* to international human rights obligations, and the second section outlines anti-ableist framing.

Recommendation 1

Embed human rights and anti-ableist framing throughout the *Disability Discrimination Act 1992* by:

- Adding a provision that the Act should be expressly interpreted in the most beneficial way for people with disability, consistent with Australia's human rights obligations.
- Incorporating the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) in the Act's objects provision and aligning language and terminology to its standards.
- Reviewing all language and terminology in the Act and guidance materials using anti-ableist criteria.

The content in this section addresses the following consultation questions:

10. Should the Disabilities Convention be included in the objects provision of the Disability Discrimination Act?

11. Should the Disability Discrimination Act be expressly required to be interpreted in a way that is beneficial to people with disability, in line with human rights treaties?

49. What additional **guidance materials** should be provided to the community, including duty holders, about the operation of the Disability Discrimination Act or specific amendments proposed in this paper?

51. Are there any **other issues** with the Disability Discrimination Act that should be considered as part of this review?

Human Rights Framing and Alignment

As the *Disability Discrimination Act 1992 (Cth)* (Disability Discrimination Act) predates the UNCRPD, this is an important opportunity to modernise the Act. **The Disability Discrimination Act should therefore include an express requirement that it be**

interpreted in the most beneficial way for people with disability, consistent with Australia's obligations under human rights treaties such as the UNCRPD. This would ensure courts and decision-makers prioritise the rights, dignity and inclusion of people with disability when applying the Act, providing clearer guidance and stronger protections against discrimination.

CYDA recommends that the Disability Discrimination Act aligns with human rights frameworks to fulfill Australia's obligations under the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) and the United Nations Convention on the Rights of the Child (UNCRC). As a state party to the UNCRPD, Australia has a duty under article 4 (1), to ensure that the human rights of all persons with disability are promoted and realised, without discrimination of any kind.[1]

The review of the Disability Discrimination Act provides a rare opportunity for the government to harmonise legislation and protections for children and young people with disability. CYDA recommends that the updated Act includes the Disabilities Convention in the objects provision and that language across the Act is aligned to the UNCRPD.

CYDA also supports the creation of a national Human Rights for progressive realisation of children and young people's rights[2]. The Australian Government is the only liberal democracy that does not have a national Human Rights Act[3]. Instead, Australia relies on a patchwork of federal statutory law, state and territory law and common laws to legislate against disability discrimination. Human Rights legislation exists in Queensland, Victoria and the Australian Capital Territory, and there is a campaign to introduce an Act to New South Wales.[4] A federal Human Rights Act, alongside a modernised Disability Discrimination Act, will enhance legal protections and bring Australian legislation more fully in line with international human rights standards and obligations. This includes the obligation to adopt all "appropriate legislative, administrative and other measures[5]" to implement rights outlined in the UNCRPD.

Research by the Human Rights Law Centre highlights the positive impact that Human Right Acts in Victoria, ACT and Queensland have had on the lives of people with disability, including children and young people[6]. Human Right Acts have:

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[1] United Nations Convention on the Rights of Persons with Disabilities (2006), Article 4
[2] Faddoul, D (2022) Human Rights Law Centre (2022), Charters of Human Rights Benefit People with a Disability
[3] Australian Human Rights Commission (2023), Commission launches model for an Australian Human Rights Act.
[4] Human Rights Act for NSW (HRA4NSW)
[5] United Nations Convention on the Rights of Persons with Disabilities (2006), Article 4.1 (b)
[6] Faddoul, D (2022) Human Rights Law Centre (2022), Charters of Human Rights Benefit People with a Disability

- Helped governments to identify and address human rights issues affecting people at an early stage of policy development.
- Prevented rights breaches through practical outcomes — for example, a Victorian student with a learning disability avoided expulsion after their advocate invoked human rights, prompting the school and Department of Education to provide support that resolved the issues.[7]
- Ensured transparency around how governments and parliaments have considered people's human rights.
- Promoted better understanding of human rights.
- Prevented human rights issues from escalating.[8]

At a national level, embedding the UNCRPD directly into the Disability Discrimination Act will answer the calls by young people with disability for a:

> *"More explicit human rights culture". Young person with disability, DDA focus group September 2025.*

Embedding a human rights framing in the language of the Disability Discrimination Act will not only strengthen disability discrimination protections, but will pave the way for a comprehensive, enforceable national human rights act in the future.

Anti-ableist review

CYDA recommends the Government undertake an anti-ableism review of the Act along with all new and existing guidance materials.

Children and young people with disability prefer strengths and rights-based framing to support their everyday experiences. Altering language to reflect these updated understandings of disability will support positive change in community attitudes and practices.

Campbell's (2001) commonly cited definition of ableism is:

"*A network of beliefs, processes and practices that produce a particular kind of self and body (the corporeal standard) that is projected as the perfect, species-typical and therefore essential and fully human. Disability, then, is cast as a diminished state of being human*."[9]

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[7] CYDA (2022) Joint Submission to the Disability Royal Commission; Charter of Human Rights p.7-18
[8] Faddoul, D (2022) Human Rights Law Centre (2022), Charters of Human Rights Benefit People with a Disability
[9] Campbell, F. 2001. Inciting legal fictions: 'disability's' date with ontology and the Ableist body of the law. Griffith Law Review 2: 42–62.

In everyday life, ableism is perpetuated through attitudes such as low expectation and pity, policy that centres the perspectives of those without disability, and practices such as maintaining segregated schools and workplaces.

The way the Disability Discrimination Act and its supporting materials are framed, has the potential to broaden the concept of 'normative personhood'[10] to include all people with disability and those who are multiply marginalised.

CYDA recommends the following criteria be considered in the content review:

- **Centre the perspectives of children and young people with disability, and assume agency**

Guidance materials should be written with recognition that disability is part of the diversity of everyday life, and the problem of discrimination belongs to, and needs to be solved by, everyone. The use of categories such as "equity cohorts" distances people from an implied norm. For example, common policy framings include "those in equity cohorts are not performing at the same level as others" or "some groups are more likely to experience vulnerability". These statements both frame people with disability as 'other' than the norm and as passive recipients without the understanding or ability to act on their own behalf.

- **Use a strengths and rights-based framing**

Children and young people with disability have repeatedly called for increased awareness of their rights to access the same goods, services and spaces as any other person. They have emphasised the duty holder's responsibility to provide adjustments to facilitate this. Removing the word 'reasonable' is a good example how this framing can be used. The term 'reasonable' has led to the belief that adjustments were open to interpretation through the lens of what is 'reasonable', rather than a fundamental human right.

- **Locate problems in attitudes, policies and practices**

The bodies, minds and practices of children and young people with disability should never be highlighted as policy problems. For instance, rather than stating a policy problem as 'high levels of unemployment for young people with disability', the cause of this policy outcome should be highlighted. In this case, ableist attitudes, policies and practices in workplace cultures and employees actively prevent young people with disability from accessing workplaces.

[10] Campbell, F. K. 2013. Problematizing Vulnerability: Engaging Studies in Ableism and Disability Jurisprudence. Keynote presentation.

- **Assign harm to its actual source**

Similar to the previous point, the states and traits of people with disability should never be framed as reasons for harm. Many policy documents assign blame to the person being harmed. For example,

"*Certain groups are more vulnerable to unemployment and underemployment, based on factors such as education, skills, health, disability, place of residence, access to transport, and employer discrimination*."[11]

In this example, the harm caused by unemployment is attributed to the states and traits of people – their skills, disability and location. The real policy problem is the network of laws, policies, practices and attitudes that perpetuate ableism and other prejudice in workplaces and cultures across the country.

- **Consider a wide variety of intersecting barriers**

Systemic racism, homophobia, transphobia, and youth-based prejudice interact with ableism creating additional and compounding barriers for many children and young people with disability that impede their right to belong and be included in society. Duty holders need guidance to address the complexity of how this layered and compounding oppression operates, and what they should do to dismantle it.

[11] Education and Employment References Committee, 2018 Jobactive: failing those it is intended to serve (aph.gov.au)

Part 2: Understandings of disability and disability discrimination

Recommendation 2

Redefine disability and incorporate language which is:

- Strengths based
- In line with the social and human rights models of disability

The definition of disability

The content in this section addresses the following consultation questions:

1. How should disability be defined in the Disability Discrimination Act?
2. What factors should be considered in developing a new definition of disability?

CYDA advocates for a definition of disability which is strengths based. The definition of disability in the Disability Discrimination Act is outdated and uses ableist, deficit-based language such as, "disturbed behaviour", "disfigurement" and "malfunction." Although the Act itself is broadly based on the social model of disability, the current definition does not reflect this, and instead uses a medical model, "defining impairments and identifying people with disabilities" as opposed to "describing how discrimination takes place and how it should be addressed.[12]" Medicalised and paternalistic framing is especially common towards Children and Young People with Disability, and it underestimates their capacity, skills and resilience.

Children and young people told us that they prefer **strengths-based framing:**

Table 1 - Focus Group participant comments

Participants in CYDA's Disability Discrimination Act Review focus group agreed that respectful language includes:

- Person with disability
- Disabled person

They also agreed that the following language is not respectful:

- Special needs
- Different abilities
- Impairment

[12] Australian Government Productivity Commission (2004) 'Review of the Disability Discrimination Act 1992', Productivity Commission Inquiry Report, p 15.

CYDA strongly supports implementing a definition of disability which incorporates a social and human rights understanding of disability. In the development of a new definition of disability, the Australian Government should consider its alignment with other acts and legislation.

CYDA recommends that the new definition of disability is based on the definition in the CRPD*:

'Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.'[13]

Using this definition in the updated Disability Discrimination Act would modernise the Act and bring Australia's legislation in line with international human rights frameworks and the wider communities' understanding of disability.

[13] United Nations Convention on the Rights of Persons with Disabilities (2006), Article 1

Part 3: A positive duty to eliminate discrimination

Recommendation 3

CYDA calls for the introduction of a positive duty in the Disability Discrimination Act to ensure children and young people with disability can access inclusive, safe and equitable opportunities without needing to initiate complaints. This should:

- Require all duty holders in child and youth-facing sectors (including but not limited to; education, health, and community services) to take proactive and proportionate steps to identify and remove barriers to inclusion impacting children and young people with disability.
- Incorporate both educational and enforcement mechanisms, and
- Resource the Australian Human Rights Commission to provide tailored guidance, monitoring, and enforcement that prioritises early intervention and protects the rights of children and young people with disability across all settings.

The content in this section addresses the following **consultation questions**:

12. If there was a positive duty in the Disability Discrimination Act, who should it apply to?
13. Are there lessons from the operation of the positive duty in the Sex Discrimination Act that could be incorporated into a positive duty in the Disability Discrimination Act?
14. What costs, benefits and other impacts would duty holders experience in meeting a positive duty under the Disability Discrimination Act? If you are an existing duty holder under the Disability Discrimination Act, please specify how you think meeting a positive duty would impact you.

CYDA recommends incorporating a positive duty in the Disability Discrimination Act.

A positive duty would place obligations on duty holders to take proactive steps to eliminate unlawful discrimination, harassment and vilification. Currently, the Act addresses discrimination after it has already occurred, relying on the individual complaint's mechanism. This is dependent on people with disability bringing a case

forward and creates significant barriers to achieving substantive equality. The Australian Human Right Commission's Free and Equal Project[14] found that existing federal discrimination law "falls short of realising effective remediation for discrimination" and outlined a "preventative approach…towards actions that better support the fulfilment of rights."

Embedding a positive duty in the Act, would support a preventative culture shift and benefit the lives of children and young people with disability, supporting their full participation in education, employment, social and community life.

Young people in CYDA's Disability Discrimination Act review focus group also supported incorporating a positive duty, with one young person sharing that a positive duty would,

> *"Make everyone feel more included, safe and respected, making things accessible improves quality of life for everyone" Young person with disability, DDA focus group September 2025.*

Another young person highlighted that

> *"PwD would feel more equal to others; but deeper cultural change hopefully arising from this would be needed" Young person with disability, DDA focus group September 2025.*

A positive duty must place responsibility on duty holders to take proactive measures to prevent disability discrimination. The scope of a positive duty should apply to organisations, businesses, employers, schools, service providers and public authorities. Akin to the recently revised *Sex Discrimination Act 1984* (Cth), the introduction of a positive duty would impose a legal obligation to prevent disability discrimination in the workplace, to identify and assess risks of disability discrimination, and to make it unlawful to subject another person to a workplace environment that is hostile on the grounds of disability.

While the *Sex Discrimination Act 1984* (Cth)[15]introduced a positive duty on employers and persons conducting a business or undertaking (PCBUs)[16], **a positive duty in the Disability Discrimination Act must extend to all duty holders in child-facing sectors (including but not limited to; education, health, and community services).** Extension to all duty holders, similar to Child Safe Standards and mandatory reporting requirements[17] will reinforce the duty that all sectors involving

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[14] Australian Human Rights Commission (2021) Free and Equal: A reform agenda for federal discrimination laws
[15] *Sex Discrimination Act 1984* (Cth)
[16] *Anti-Discrimination and Human Rights Legislation Amendment (Respect at Work) Act 2022* (Cth)
[17] The Victorian State Government Child Safe Standards

interaction with chilkdren have to ensure that ensure environments are actively inclusive and safe for children and young people with disability.

The Sex Discrimination Act places the burden of proving 'reasonableness' and 'proportionate' actions on the alleged discriminator. This is relevant to the disability discrimination act review as this burden and onus of proof of 'reasonableness' currently sits with the complainant. The operation of the Sex Discrimination Act has highlighted that the defendant is best placed to comment on the reasonableness and burden of proof. By including both public and private sectors, and institutions that shape the lives of children and young people with disability, **a positive duty will ensure proactive and systemic inclusion rather than ad hoc 'restorative' justice.**

Costs, benefits and impacts of a positive duty

A positive duty would move the Disability Discrimination Act towards prevention, reducing reliance on individual complaints. The current mechanism poses several structural and practical barriers for children and young people with disability to use due to complexity, inaccessibility, cost, or fear of repercussions.

On these barriers to making a complaint, **children and young people told CYDA** that the process was:

> *"Esoteric, with borderline impossible forms and things to do". Young person with disability, CYDA Disability Discrimination Act Survey 2025*

> *"Making a complaint was frustrating because it felt like my concerns weren't taken seriously at first…The outcome was disappointing, as little changed despite raising my concerns". Young person with disability, CYDA Disability Discrimination Act Survey 2025*

Many children and young people did not pursue a complaint of disability discrimination because the process was:

> *"Too exhausting and didn't think it would create any results". Young person with disability, CYDA Disability Discrimination Act Survey 2025*

> *"Even though I have faced multiple examples of disability discrimination, the financial and emotional burden of navigating a formal complaint has stopped me from taking things further". Sarah, young person with disability, Case Study 2, 2025.*

While duty holders may incur initial costs for training, policy reform and inclusive design, these would be outweighed by benefits such as fewer disputes, more accessible services and stronger compliance frameworks. Importantly, it would shift the burden of challenging discrimination away from children and young people and their families, ensuring organisations are accountable from the outset.

Benefits for children and young people with disability

CYDA recommends resourcing the Australian Human Rights Commission (AHRC) to provide tailored guidance, monitoring, and enforcement that prioritises early intervention and protects the rights of children and young people with disability across all settings.

The AHRC has emphasised that positive duties improve early identification of risks and foster cultural change. Importantly, the AHRC also notes that compliance should follow the principle of progressive realisation. This means that organisations are supported to make steady, demonstrable improvements over time, proportionate to their resources and influence. For children and young people with disability, this ensures their rights to safety, inclusion and participation are prioritised now, while recognising that systemic barriers may take time to dismantle. In practice, this means more inclusive schools, health care, sport and community settings where barriers are addressed early and consistently, without waiting for discrimination to occur.

One of the CYDA Disability Discrimination Act review focus group participants addressed the challenges in the face of discrimination, saying,

> *"Gives young people with disability the confidence to understand, articulate, and expect their needs and be accommodated".*

CYDA's role as an existing duty holder

CYDA recognises its dual responsibilities as an employer and as the national advocacy body for children and young people with disability. As an employer, we prioritise inclusive recruitment, flexible work practices and staff training. These elements have been shown to be of importance to young people with disability.[18]

As an advocacy organisation, we see a positive duty as a systemic lever: it would reinforce our efforts to hold governments and service systems accountable for meeting the rights of children and young people with disability, ensuring that prevention and inclusion are embedded in everyday practice rather than treated as afterthoughts.

[18] Social Ventures Australia (SVA) 2024, Voices On Work: Young People with Disability in Greater Melbourne

Part 4: Equal access for children and young people with disability in employment, education and other areas of public life

This part of the submission includes four sections. The first section discusses amendments to the duty to provide adjustments. The second section responds to the concept of unjustifiable hardship. The third section outlines considerations for determining inherent requirements, and the final section addresses practices of exclusion and exclusionary discipline.

Recommendation 4

CYDA calls for the following amendments to strengthen the rights of children and young people with disability in employment, education, and other areas of public life:

- Remove the term “reasonable” and create a standalone duty with additional accountability for adjustments in employment, education and other areas of public life.
- Ensure the definition and processes of unjustifiable hardship include clarity, balance between rights and responsibilities, consultation and accountability.
- Broaden the use of inherent requirements to include education settings and providing additional processes for determining inherent requirements of a job or course that incorporate consultation with people with disability.
- Clearer definition and additional accountability for exclusionary discipline practices including conditions which must be met before and after these practices occur and a mechanism for appeal.

As reflected in the following quote, young people in CYDA’s Disability Discrimination Act review focus group felt strongly that **people with disability must be involved in decisions that impact them in all aspects of their lives**.

> *“I think that a lot of the time when neurotypical and able-bodied people are the ones making decisions, it already becomes less accessible because they're not thinking about other people's access needs”. Young person with disability, DDA focus group September 2025.*

The duty to provide adjustments

The content in this section addresses the following consultation questions:

16. Would the creation of a **stand-alone duty** to provide adjustments better assist people with disability and duty holders to understand their rights and obligations?

17. Should the **scope of the duty** to provide adjustments apply only to the existing areas of public life covered by the Disability Discrimination Act, or extend to other contexts?

18. Would **removing the word 'reasonable'** from the term 'reasonable adjustments' to align the language with the legal effect create any unintended consequences?

CYDA strongly supports the creation of a **standalone duty** in the Act that requires duty holders to provide adjustments to people with disability, with a failure to do so constituting an unlawful act (separate to the definitions of direct or indirect discrimination and in instances where the criteria for unjustifiable hardship is not met).

CYDA also supports **adding accountability** requirements, **extending the scope** of this duty to apply to other contexts, and **removing the word 'reasonable'** from the Act in relation to adjustments. These four aspects are addressed in turn below.

Young people in our community consistently report having to 'fight' for adjustments in education and in the workplace.

> *"A rights-based approach would mean I wouldn't have to fight for reasonable adjustments to be met, for example, if there was a standard of inclusivity within the workplace allowing for flexible and remote work.". Young person with disability, Time for Change Policy Forum: Young People with Disability's Perspectives on Discrimination March 2025*

Young people participating in the Disability Discrimination Act review focus group provided valuable insights through a robust discussion on how adjustments are implemented in education and workplace settings (See table 1 and Focus Group participant quotes, pp 21, 22).

Their comments point to the problematic culture of discrimination and exclusion that has been maintained under the existing Disability Discrimination Act and the need for amendments that will shift this culture and the practices that arise out of it.

Table 2-Focus Group participant comments

Participants in the Disability Discrimination Act focus group described good **workplaces** as having:

- Multiple accessible ways to apply and interview
- Adjustments normalised and available to anyone
- Flexible/hybrid work and transparent pay/promotion systems
- Universal design in buildings, systems, and documents.

They described good **schools** as having:

- Diverse and supportive staff trained in disability and trauma awareness with access to youth workers as required
- Strong inclusion policies and practices like student support group (SSG) meetings, listening to families, flexible internal and external activities (like school camps) and effective practices to prevent bullying
- Accessible design including lifts, ramps, and sensory spaces with the ability to provide anonymous feedback
- A culture that celebrates creativity, kindness, arts and diversity while destigmatising disability and fostering belonging
- Governance practices that support teachers to listen to and believe students with disability and involve them in decision-making.

As an example of poor workplace practice, one young person described:

> *"Framing requests for adjustments as 'special treatment' ". Young person with disability, DDA focus group September 2025.*

Two young people suggested the following to address this problem:

> *"Normalise adjustments as part of workplace culture ('everyone needs different tools to do their best work'). Young person with disability, DDA focus group September 2025.*

> *"I think that in a perfect world, every teacher would have disability training and also trauma awareness training and probably all have access to resources to that they can pass on to students if they need help in something that the teacher is not trained in". Young person with disability, DDA focus group September 2025.*

1. **A stand-alone duty**

This amendment will shift the workload of initiating discussions about adjustments from children and young people with disability to duty holders. Children and young people with disability, their parents and caregivers have told us about the additional emotional strain that they often take on by having to advocate for themselves in scenarios where there is limited clarity about their rights.

> *"We have this added burden […] there are so many different parts of our lived experience that we have to try and explain to people." Young person with disability, LivedX focus group 2021*

Another young person explained that when employers are proactive,

> *"It feels so much more welcoming and that you're not the big elephant in the room". Young person with disability, National Youth Disability Summit 2023.*

2. **Adding accountability**

It is critical that the stand-alone duty and corresponding guidance materials contain additional accountability to safeguard children and young people with disability. Dominant socio-cultural understandings and attitudes – both historical and current – are the root of violence and abuse against children and young people with disability. The way we colloquially speak about disability, and how it is considered and represented in policy and law making, operates alongside the cultural norm of children and young people being expected to yield to powerful others. From this emerges a unique and dangerous dynamic that normalises the abuse, neglect and mistreatment of children and young people with disability. The amendments to the Disability Discrimination Act recommended in the DRC final report are designed to disrupt the mechanisms of ableism, create long-term community attitude change, and promote understanding and respect for people with disability.

Amendments that apply a commensurate burden to duty holders equal to the impact of harm are important to safeguard children and young people with disability, and should include:

- Requirement to maintain a record of consultation and adjustments put in place via the Nationally Consistent Collection of Data on School Students with Disability
- Review process to track effectiveness recorded in the Nationally Consistent Collection of Data on School Students with Disability
- Clear and accessible appeals process that includes straightforward access of student data from the Nationally Consistent Collection of Data on School Students with Disability for their child.

These amendments will remove the employer/educator subjective discretion that has prevented children and young people with disability from having appropriate and tailored adjustments put in place. It will also include young people in decisions that impact them.

> *"Maybe I want to have a choice, but everything just gets planned for me, which isn't really fun". Young person with disability, National Youth Disability Summit 2023.*

Including children and young people with disability in discussions about adjustments and reviewing their effectiveness means employers and educators can be responsive to the unique and individual needs required during developmental changes and transitions between settings. Lack of support during transitions leads to numerous poor outcomes.[19]

> *"It's really exhausting and frustrating having to continually advocate for yourself and not getting the things you need. Because if they did accommodate me I would be able to do the things I want/need to do". Young person with disability, CYDA Disability Discrimination Act Survey 2025*

In our 2025 Disability Discrimination Act review survey, CYDA heard from children and young people about the benefits that adjustments make in the workplace:

> *"When reasonable adjustments were made, it made a huge difference— I could take part fully and felt included". Young person with disability, CYDA Disability Discrimination Act Survey 2025*

> *"When my needs and adjustments were met at work, I was able to participate fully, work more effectively and also educate others in my workplace about disability inclusion. The benefits extended beyond myself, and it had a positive impact on the culture of my workplace". Sarah (see case study 2), Young person with disability, 2025.*

3. **Extend the scope to all settings**

CYDA supports broadening the stand-alone duty for adjustments to other **contexts or settings,** including online spaces which have the potential to be both supportive and harmful for children and young people with disability.[20] This change would send a clear signal that Australia is committed to ensuring the rights of people with disability in all

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[19] CYDA, 2025. CYDA's submission on Supporting Rights-Based Employment for Young People with Disability; Social Ventures Australia, 2024. Voices on work: young people with disability in Greater Melbourne

[20] CYDA, 2024. CYDA submission Online Safety Amendment (Social Media Minimum Age) Bill

aspects of life. The scope should not be limited to the existing areas described in the current Disability Discrimination Act, and safeguards should be put in place to provide clarity for duty holders. For instance, in circumstances where a person with disability has not disclosed their disability or information about the adjustments they require, the duty would not apply (unless of course they are in a setting in which the positive duty applies).

4. **Remove "reasonable" from the concept of adjustments**

CYDA supports **removing the word reasonable** from the Act to prevent the common misconception that adjustments can be assessed through the common law principle of the reasonable person test and the unjustifiable hardship criteria. Simplifying the concept will encourage duty holders to see adjustments as something that must be delivered unless they meet the unjustifiable hardship criteria and lead to more children and young people with disability accessing adjustments in education and workplaces.

In addition to these four amendments, CYDA recommends all guidance for duty holders on adjustments be **co-designed with children and young people with disability** and other key stakeholders, such as Disability Representative Organisations. This will ensure new processes and their supporting documentation are fit for purpose. In particular, enrolment and job application processes and documentation should reflect the obligations of positive duty and gather information about adjustments with examples of what is possible, and reassurance that the applicant will not be disadvantaged by providing this information. Organisations and individuals with less resources should also be guided to carry out a process of consultation.

Many children and young people with disability have been harmed or disadvantaged by not having appropriate adjustments in place. Regarding education settings, the DRC final report noted that this has been in part due to problematic differences between the Disability Discrimination Act and Disability Standards for Education 2005.[21] Enabling cohesion between the two instruments and their supporting documentation is critical to correcting the harm to children and young people with disability in education settings.

Each of the amendments recommended by CYDA will provide confidence for children and young people with disability and their caregivers and clarity for duty holders. It would also remedy the widespread challenges children and young people with disability have faced when trying to get adjustments put in place using the current Act.

[21] DRC, 2023. Final report, Vol 7, pp. 108-111

Definition of and considerations for unjustifiable hardship

The content in this section addresses the following **consultation question**:

19. What is your preferred approach to achieving greater **fairness and transparency** in claims of **unjustifiable hardship**:

a. the Disability Royal Commission amendment as proposed

b. a new definition of unjustifiable hardship

c. other

Please expand on your response.

CYDA urges the Attorney-General's Department to create an **explicit and robust definition of unjustifiable hardship** supported by rights-based processes.

CYDA is concerned about the detrimental impact that case law has previously had on children and young people with disability in defining this concept. We are broadly supportive of the DRC amendments, but offer the following points as important to CYDA's community:

- An amended definition must be **clear** enough to be used without frequent need of interpretation across all settings.
- Amendments should **balance** the responsibilities of the duty holder with the rights of children and young people with disability. Those seeking adjustments must be confident the definition and processes enable this right and duty holders need assurances of protection from significant detriment to their organisation or other users.
- Duty holders should be required to **consult** with the person with disability **prior** to claiming unjustifiable hardship as per subsections (aa) and (ab) proposed by DRC.
- Processes must create **accountability**, such as the documentation suggested by DRC's proposed subsection 1A.

Children and young people with disability want to be included in decision making, and being supported through a process defined in the Disability Discrimination Act would create important skill building opportunities, especially at points of transition such as from school to work.[22]

[22] CYDA, 2022 Growing up Making Decisions: When best interests are not in the best interests of young people with disability.

CYDA highlights that without confidence in new processes, there is a risk that duty holders increase gatekeeping practices to avoid disputes. This would prevent children and young people with disability from enrolling in education settings or gaining employment. Therefore, these amendments require carefully co-designed guidance material that will enable duty holders to shift to a rights-based understanding of supporting children and young people.

Improving consideration for inherent requirements of work (and study)

The content in this section addresses the following consultation questions:

20. What are your views on amending the Disability Discrimination Act to consider the **nature and extent of any adjustments** made and encourage **consultation** between prospective or current employers and prospective or current employees before making employment decisions?

21. Are there **other amendments** to the Disability Discrimination Act that could support engagement between prospective or current employers and prospective or current employees to better understand the inherent requirements of a job?

22. Should any other amendments be made to the definition of inherent requirements, including **factors that should be considered** when deciding whether a person could carry out the inherent requirements of a job?

CYDA recommends introducing **requirements for duty holders to consider the nature and extent of any adjustments made and undertake a consultation process** with children and young people with disability to determine inherent requirements.

CYDA is also **broadly supportive of a statutory definition** of inherent requirements to ensure clarity and balance between duty holders and people with disability.

These recommendations will be outlined in greater detail in the second half of this section. First, we present some key concerns and perspectives from our community.

The experiences outlined by the following two young people exemplify the challenges they face when navigating the concept of inherent requirements in a work setting.

> *"The whole thing went really well. And then at the very end, I'm like, 'I know I didn't really mention this in my resume, but I am in a wheelchair. I hope this doesn't change much'. And then they're like, 'Oh, I'm really sorry. You need to have this core ability – like a certain level of ability'."*
> *Young person with disability, LivedX focus group 2021*

"I didn't feel like I could be open and honest about the entirety of who I was, including my disabilities, in fear of not being accepted, accommodated, and heard. Because of this, I didn't disclose my disability often in employment situations, and if I did, it was a sugar-coated version, in fear of not being taken seriously or not being seen for my value." Young person with disability, blog, 2023[23]

A young person in the Disability Discrimination Act review focus group shared a situation that frustrated them about job descriptions:

"Advertising a job that shouldn't really require it as 'must be able to lift 10kgs'." Young person with disability, DDA focus group September 2025.

Similar experiences have arisen out of the inherent requirement for in-person attendance in the description of courses in tertiary education.

"I asked my university many times if I could call into my classes, especially because some of my classes were not accessible for mobility aids, and they would not let me, but as soon as COVID happened they suddenly were able to do distance classes". Young person with disability, LivedX focus group 2021

Young people are also concerned about the overall culture of "work" in Australia.

"Competitive, high pressure, individualistic. hustle culture" Young person with disability, DDA focus group September 2025.

Government statistics from 2018 demonstrate that people with disability aged 15-64 are twice as likely to be unemployed than those without disability. And for young people with disability (15-24) were twice as likely to be unemployed as those aged 25-64.[24] Despite investment in employment programs the figures for young people with disability in the workforce have remained low which has been especially detrimental for mental health.[25]

Children and young people with disability have the right to approach a job or course without feeling the need to hide part of who they are. They should feel confident that employers and education providers have carefully and fairly considered the genuine inherent requirements of the role or course without making assumptions about their

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[23] Garrahy, G, 2023. The lifesaving impact of representation, CYDA blog.
[24] Australian Institute of Health and Welfare, 2024. People with Disability in Australia
[25] Sheilds, M, et al. 2023. Young people with disability have poorer mental health when they are unemployed – funding should tackle job barriers

abilities and how they can be accommodated. High pressure work/study culture is a wider societal issue that needs to be shifted to welcome the depth and breadth of value that children and young people with disability bring to work and education settings.

Within the context of these perspectives, CYDA recommends amending the Act to **include the use of inherent requirement descriptions and considerations in tertiary education course descriptions.** This will go some way to rectifying the historically low university attendance[26] rate by students with disability.

CYDA also recommends that **amendments include processes** requiring employers and education institutions to think thoroughly and critically about the genuine inherent requirements of the job or course.

The following should be part of duty holder requirements:

- Factor in the nature and extent of adjustments when considering whether the person with disability can meet the inherent requirements
- Maintain a record of the extent of consultation with the person with disability
- Include existing employees changing job roles, disability status or needs, as well as potential employees
- Use in enrolled environments such as universities making decisions to enable students with disability access to courses
- Address privacy concerns about the way people disclose their personal information and access requirements.

The expectations embedded into the concept of "work" in most Australian workplaces should also be something that employers are encouraged to consider in guidance materials about the inherent requirements of a role.

CYDA employs and consults with many young people with disability who are confident and experienced in advocacy, beyond what might be expected from their peers without disability. However, their exceptional participation and skills come at a high personal cost, with burnout as a common outcome due to the combined pressures of advocacy based on lived expertise, alongside study or other professional development commensurate with early career stage.

CYDA supports a **statutory definition of inherent requirements** as a means to prevent it being misused to justify excluding children and young people with disability. A definition which is at least in part based on the operational outcomes of both the individual role and the broader team should be used to broaden the interpretation of

[26] Bankwest Curtain Economics Centre, 2024. Employment and disability in Australia: Improving employment outcomes for people with disability.

inherent requirements. For instance, a warehouse that specialises in logistics might require all employees to have a forklift license to make rostering easier despite the fact that some roles do not involve operating a forklift. Therefore, this license is not an inherent requirement and adjustments could be made in rostering procedures to enable a young person with disability to be part of the team. If this characteristic is not included in a statutory definition, then it should be included in the duty holder processes described on the previous page (p.28).

CYDA's support for Inclusion Australia's recommendations related to Employment

CYDA also endorses Inclusion Australia's recommendations in their submission to the Disability Discrimination Act review as outlined below.

Reforms to the Disability Discrimination Act must strengthen employment protections by:

- Preventing misuse of the 'inherent requirements' exception to justify exclusion
- Supporting alignment between the Disability Discrimination Act and new disability employment reforms (including Inclusive Employment Australia) so that government policy goals is underpinned by anti-discrimination law
- Ensuring stronger enforcement mechanisms so that people with intellectual disability (including young people) are not left to challenge systemic underpayment or exclusion alone.

Exclusionary discipline and suspension

The content in this section addresses the following consultation questions:

23. Should the concepts of exclusion and exclusionary discipline be **defined** in the Disability Discrimination Act?

24. Should there be **exceptions or limits** on when exclusion is unlawful?

25. Should any of the **state and territory provisions** relating to exclusionary discipline be adopted in the Disability Discrimination Act?

26. Would a **different approach** to exclusionary discipline be more appropriate in the higher education and vocational education and training sectors?

CYDA calls for the Act to provide a **new and clear definition and accompanying processes for the use of exclusion and exclusionary discipline across all educational settings**.

This section presents an evidence-based argument for strong legislative response to the harm caused to children and young people with disability through exclusionary practices. It first outlines the need for clear **definitions and processes** in the Act as a key corrective measure and then discusses more briefly, the **exceptions and limits** that should be included, and the **settings** in which these amendments should operate.

The following caregiver statements exemplify the need for change.

> *"My son was only allowed to go to school for two hours a day. We asked if he could stay for morning tea with the other students, but they said he could not". Caregiver of student with disability, CYDA's 2023 Education Survey*

> *"Constantly [suspended]. Teachers don't even seem to understand the purpose of 'suspension' – that is, to give them time to implement better supports. It's typically touted as a punishment for the child (or parent) or as "down time" for the teachers to 'have a break from' the child." Caregiver of student with disability, CYDA's 2023 Education Survey*

Numerous ombudsman and public inquiry reports[27], Australian population-level longitudinal research[28], and the government's own data and reporting[29] highlight serious and adverse experiences of students and their families associated with the use of exclusionary practices. This large group of studies, reports, submissions, and inquiry outcomes have repeatedly called for strong measures to prevent these practices, yet they continue to be used at unacceptable rates on students with disability.

In CYDA's 2024 Education Survey, 72% of young people reported being excluded from activities at school and 29% of caregivers indicated that restrictive practices were used on their child.[30]

Decades of knowledge on the harm and detrimental academic, social and emotional outcomes of these practices on students with disability has not meaningfully reduced the use of exclusionary discipline. Rather these practices have continued to grow and are disproportionately used against students with disability, First Nations, and those living in out-of-home care.[31] This situation places Australia in breach of its obligations under the human rights conventions it is signatory to.

It is within this sobering context that CYDA proposes the amendments outlined previously in this section. We argue that the administrative burden imposed by such processes is commensurate with the severe impingement on the rights of children and young people with disability as a result of the use of exclusionary practices. Other sectors, such as mental health and National Disability Insurance Agency (NDIA), have introduced these processes to act as a safeguard proportionate to this risk and detriment of harm.

A **more comprehensive process to accurately capture and define all exclusionary practices being used across all educational settings** should be undertaken. A definition should include:

- Academic exclusion such as gatekeeping entry to the school or particular learning program required by the student

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[27] Victorian Ombudsman, 2017. Investigation into Victorian government school expulsions; Parliament of NSW, 2024. Children and young people with disability in New South Wales educational settings ; Centre for Inclusive Education, 2020. Inquiry into suspension, exclusion and expulsion processes in South Australian Government schools

[28] Piltz, L, et al. 2025. Students' accumulation of disciplinary school exclusion experiences over time: Prevalence, patterns, and correlates in an Australian population cohort

[29] Aust Gov Productivity Commission, 2023. Review of National School Reform Agreement
Aust Gov Standing Committee, 1996. Truancy and exclusion from school : report of the inquiry into truancy and exclusion of children and young people from school

[30] CYDA, 2025. Disillusion and Delay. CYDA's survey of the learning experiences of children and young people with disability in 2024.

[31] CYDA, 2020. Disability Royal Commission – Response to Restrictive Practices issues paper
CYDA, 2025. Disillusion and Delay: CYDA's survey of the learning experiences of children and young people with disability in 2024

- Informal exclusions such as asking parents/carers to collect their child early or bring them in late
- Physical and structural exclusion such as segregating a student from their peer group by placing their desk outside the classroom, or not providing ramps for a child in a wheelchair
- Social and emotional exclusion such as not addressing bullying concerns, using punitive approaches to disability related behaviours, or asking a child not to attend school excursions
- Formal disciplinary exclusion such as suspension and expulsion
- Restrictive practices as per the DRC definition[32] which is based on the NDIA Quality and Safeguards Commission definition.

In outlining the detail for a definition of exclusionary practices, we also recommend that **none of the state or territory provisions should be adopted** as they all contain phrases that are highly subjective and can be used to discriminate against students with disability.

CYDA recommends that equity, reduction of harm and realisation of human rights for students with disability can be best achieved through the combination of clear definitions with explicit processes that govern exclusionary practices.

Drawing on recommendation 7.2 of the DRC's Final Report[33] we suggest the following:

- Processes for planned exclusionary practices:
    - Reporting requirements to track all exclusionary practices involving students with disability using the Nationally Consistent Collection of Data on School Students with Disability
    - Use of a risk approach to consider and document the whole context of student such as age, living arrangements, disability, prior to carrying out exclusionary practices
    - Review of adjustments, behaviour support plans, learning plans and their implementation prior to carrying out exclusionary practices, which should not be considered unless there has been adequate implementation
- Processes for unplanned exclusionary practices:
    - Reporting requirements as per planned exclusionary practices process

[32] DRC, 2023. Restrictive practices: A pathway to elimination
[33] DRC, 2023. Final report, Vol 7, p.171

    - Rapid internal review process to ensure appropriate level of response has been applied with potential to downgrade or revoke response

- General processes:
    - Clear and robust review process for students and families to appeal
    - A clear and detailed home learning plan and return to school plan for cases of suspension
    - Documentation that can guide duty holders on fair consideration for the rights of the child or young person with disability when balancing discrimination legislation requirements with other legislation such as health and safety.

CYDA considers exclusion to be a **last resort action** to be used on a student with disability. Exceptions and limits to exclusionary practices are embedded in the proposed processes via requirements for tracking, reporting and review.

CYDA recommends that the same amendments should apply to the higher education sector. Given the problematic underrepresentation of young people with disability in this sector, it is important that legislative and policy levers be applied to create change.

These amendments will send a strong signal to educational settings that preventing the ongoing culture of harm requires serious and immediate change. They will also build a culture of prevention rather than relying on complaints to address discrimination[34].

[34] Australian Human Rights Commission, 2023. Free and Equal: An Australian conversation on human rights

Part 5: Access to justice and modernisation of the Disability Discrimination Act

Recommendation 5

To safeguard the Disability Discrimination Act into the future, CYDA recommends widening its scope and modernising its provisions to reflect a contemporary application. This includes:

- Extending the definition of "service" in policing to include interactions with people with disability suspected of a crime.
- Referencing the National Principles for Assistance animals
- Establishing a framework for Disability Action Plans which:
    - Sets minimum standards and giving the Australian Human Rights Commission the ability to reject action plans.
    - Embeds co-design and lived experience
    - Provides guidance templates and a framework for disability action plans
    - Implements accountability and enforcement measures

The definition of 'services' as it applies to police officers

The content in this section addresses the following consultation question:

31. How could the Disability Discrimination Act be amended to ensure that it covers policing?

CYDA calls for broadening the definition of service in the Disability Discrimination Act to include the various procedures undertaken by police when a person is suspected of committing an offence. An inquiry into Australia's youth justice and detention system found that it is the most disadvantaged young people who are likely to be incarcerated.[35] The Children's Commissioner made the following statement as part of the inquiry:

[35] Senate Standing Committee on Legal and Constitutional Affairs, 2024. Australia's youth justice and incarceration system: Chapter 2

Children in the justice system have fragmented education experiences, marked by periods of exclusion and expulsion, resulting in poor educational outcomes. They have precarious living arrangements including homelessness and/or placements in out-of-home care. They have often experienced drug and alcohol related addiction, struggle with complex, unresolved trauma, and live with mental illness and/or disabilities. Children in the justice system have higher rates of speech, language and communication disorders, [attention deficit hyperactivity disorder], autism spectrum disorders, [fetal alcohol spectrum disorder, FASD], and acquired/traumatic brain injury.

First Peoples Disability Network released a statement condemning the alarming rate of incarceration of First Nations youth with disability after a First Nations child with intellectual disability suffered distress and injury in an adult watchhouse in Queensland.[36]

The following story exemplifies why amendments to this part of the Disability Discrimination Act are necessary,

> *"I've got cerebral palsy, I walk a little bit funny, and I got stopped by a cop and they wanted proof that I had a disability, so they wanted me to show them the actual diagnosis papers. Do I carry them with me in my bag? No. So I had to ring one of my teachers—it was so embarrassing". Young person with disability, LivedX focus group*

Rules about assistance animals

The content in this section addresses the following consultation questions:

38. How could the protections for assistance animals be clarified for both people with disability and duty holders, including in relation to evidence of training, evidence or standards of hygiene and behaviour that are appropriate for a public place?

39. Would legislative amendments or guidance materials be helpful to balance flexibility and certainty, or a mixture of both?

40. Should specific training organisations be prescribed under the Disability Discrimination Regulations?

CYDA calls for a combination of legislative amendments and guidance materials to address existing shortfalls in relation to assistance animals in the Disability Discrimination Act. Limitations in access to assistance animals is especially detrimental to children and young people with disability who are generally not in a position to investigate the suitability of this kind of support. Any amendment to the Act

[36] FPDN, 2024. JOINT MEDIA STATEMENT: Condemning the state sanctioned abuse and mass incarceration of First Nations children with disability

should ensure that there is absolute clarity that children and young people with disability, and their caregivers, have a right to access public places and services with an assistance animal.

CYDA does not believe that changing the Act to specify evidence requirements or prescribed training organisations will be helpful to people with disability or duty holders. Rather, we recommend referencing the principles currently being developed by the Department of Social Services.

In the same way that the Disability Standards for Education clarify the obligations of education and training providers under the Disability Discrimination Act 1992, the National Principles for Assistance Animals should be the instrument that provides guidance and clarity to duty holders under the Disability Discrimination Act. In our submission[37] to the recent Assistance Animals consultation, CYDA recommended the following:

- Fund a national initiative to deliver a coordinated Assistance Animals Framework to embed the National Principles across the states and territories
- Strengthen the six draft principles
    - National accreditation for trainers and organisations
    - Minimum training standards for assistance animals
    - Single public access test
    - Evidence of disability and need
    - National identity card and logo
    - Five-domains model of animal welfare

Guidance materials could include evidence items from example Public Access Tests (PAT) test, specific examples of hygiene standards (which are also listed in some PAT templates), and guidance around accommodating children and young people with assistance animals. This advice will increase certainty and maintain flexibility.

Additionally, guidance materials should be included for duty holders to ensure compliance with the right to access public spaces and services with an assistance animal under the CRPD.

[37] CYDA, 2025. National Principles for the regulation of Assistance Animals, Submission to Department of Social Services

The framework for disability action plans

The content in this section addresses the following consultation questions:

41. Should there be minimum requirements for action plans (such as through guidelines) and what should the minimum requirements cover?

42. Should the Australian Human Rights Commission be able to reject action plans that fail to meet these requirements?

43. Should there be a set period of time for which an action plan is valid?

44. Are there any other changes to the action plan process that you would recommend?

47. Could the Australian Human Rights Commission provide additional guidance to duty holders regarding how to self-report on the Disability Standards in disability action plans?

CYDA recommends a framework for disability action plans which:

- **Sets minimum standards and gives the Australian Human Rights Commission the ability to reject action plans.**

The success of mandated Plans such as Reconciliation Action Plans (RAPs), Gender Equity Plans under the Workplace Gender Equality (Gender Equality Targets) Instrument 2025, and the National Child Safe Standards to create organisational change and increase compliance, highlights the effectiveness of minimum standards and legislated action plans.

For example, Reconciliation Australia gives organisations the guidance and structure to develop meaningful Reconciliation Action Plans (RAPs). Specifically designed for workplaces, Reconciliation Action Plans are reviewed and submitted to Reconciliation Australia for feedback[38]. Using provided templates and resources which contain minimum standards and deliverables, this process ensures that all RAPs meet standards for endorsement.

CYDA recommends a similar approach to Disability Action Plans through the creation of guidance templates and minimum requirements set by the Australian Human Rights Commission. DAP templates and guidance documents should include actions such as engaging and developing key relationships with Disability stakeholders and Disability Representative Organisations. Other requirements could include access to facilities, inclusive policies and staff training. By granting the AHRC

[38] Reconciliation Australia, 2025. About RAPs

authority and the power to refuse registration of plans that do not meet these requirements, organisations will be discouraged from creating tokenistic DAPs and will encourage genuine commitment to disability inclusion.

- **Embeds co-design and lived experience**

Genuine co-design with intersectional and diverse groups of people with lived experience will support the creation of action plans that are shaped by those they affect. Engagement with young people and children with disability in the drafting, implementation and evaluation of DAPs will harness lived expertise and support organisations to create meaningful change. Genuine co-design goes beyond consultation; it is a participatory approach that brings together people with lived experience and people with technical expertise to design solutions to a particular issue or problem.[39] This should take place on an equal basis, where decision-making power is shared at all stages of project development. These stages may include but are not limited to research, design and implementation. Co-design should be an ongoing process in which meaningful participation is embedded across every aspect of a project.

- **Provides guidance templates and a framework for Disability Action Plans**

The creation of a staged framework similar to the Reconciliation Action Plan (RAP) framework will allow for organisations of varying size and capacity to implement disability inclusive actions. The RAP framework includes four stages of: reflect, innovate, stretch and elevate.[40] Each stage meets organisations where they are at, to continuously strengthen their commitments and drive institutional change. Building on the last stage, each phase increases organisational commitment towards transformational change. Mirroring this approach, by providing guidance templates and a structured framework for DAPs, organisations can identify areas for improvement and build towards transformational change.

- **Implements accountability and enforcement measures**

While there are over 650 action plans on the AHRC public register, they require organisations to self-enforce and monitor progress and outcomes. Without minimum standards, accountability and enforcement mechanisms, Disability Action Plans are a 'tick box exercise'. Publicising impact reports, outcomes and embedding mandatory annual progress reporting to the AHRC will encourage compliance.

CYDA encourages the introduction of a set timeframe within which action plans will lapse to ensure that action plans are modern and fit for purpose. Alongside reporting requirements, creating formal and informal feedback loops and engagement with

[39] CYDA 2022, National Principles for Child Safe Organisations (National Principles) Resources Project
[40] Reconciliation Australia, 2025. About RAPs

young people and children with disability will facilitate active participation and meaningful input from the disability community.

Conclusion

The Disability Discrimination Act has a critical role to protect the rights of children and young people with disability in Australia. Implementing CYDA's recommendations, to embed human rights and anti-ableist framing, redefine the definition of disability using strengths based language, and introduce a positive duty for all duty holders will ensure that the Act evolves to reflect contemporary understandings of disability and remedy systemic discrimination. Strengthened accountability in education, employment and community participation, together with expanded protections covering policing, online spaces and organisational responsibilities through Disability Action Plans, will close gaps in practice and oversight. These reforms will move the Act beyond a reactive legal safeguard to an active instrument of cultural and structural change, ensuring children and young people with disability can fully participate, belong and thrive in inclusive, equitable communities now and into the future.

Case studies – young people and parents/caregivers

This section includes two case studies to illustrate the discrimination experiences of young with disability and their families. The case studies highlight the real-life experience of a student with disability in Australian classrooms and the employment experience of a young person with disability. Pseudonyms are used to protect their identities.

Exclusion and discrimination at school

Robbie* is a 7-year-old child living in a major Australian city with his parents and sister. Robbie's parents moved him from his first school after a new teacher began using punitive and **exclusionary discipline** practices, causing him significant distress. They found another public school nearby and undertook an extensive process of transition to set Robbie up for success.

They attended multiple meetings at the school with a representative from the Department of Education and Robbie's therapy team. They provided a Behaviour Support Plan adapted by his NDIS behaviour support practitioner. Robbie's significant funding package was transferred from his old school. **Adjustments were discussed** and decided on, and the school requested that Robbie's start be delayed to allow staff to undertake training in his disability support and learning needs.

Disability discrimination

After two months at school his parents received a call that they needed to pick Robbie up after a serious incident. When they arrived, a staff member explained that Robbie had become upset during a craft activity and was waving cardboard around. When the principal asked him to put the cardboard down, Robbie refused so the principal grabbed it out of his hand. As he did this, Robbie hit the principal's arm away from him.

The staff member told the parent that Robbie would be suspended from school.

Robbie's parents were shocked as they were aware that the steps in Robbie's behaviour support plan were not followed during this incident and the school had not undertaken the training they had agreed to, despite delaying Robbie's school start date to do this. They also had not implemented all the agreed adjustments.

Robbie's parents used these points to request that the principal revoke the suspension but he would not agree to this. One of Robbie's parents said,

"We were heartbroken because we could see how hard he was trying to fit in but he was just so overwhelmed. Even with all the preparation, funding and information they still used harmful discipline instead of helping him when he was distressed".

The parents called the state-based human rights commission and were told they could bring their case for mediation or proceed to the Australian Human Rights Commission with a complaint of discrimination.

After discussion they decided not to proceed with the complaint as it felt too risky and inaccessible given the level of distress in their whole family system. Having lost trust in the public education system, they reluctantly moved Robbie to an independent special school.

A strengthened Disability Discrimination Act, through the positive duty, adjustments and exclusionary discipline amendments, would have placed a higher level of accountability on the school to complete the training and put Robbie's adjustments in place. These actions could have prevented his distress behaviour and ensured that any other distress behaviour was understood as part of his disability. The additional accountability on school staff would have meant Robbie was more likely to be supported with his distress behaviour and less likely to have been suspended.

**Robbie is not their real name*

Disability discrimination in employment

Sarah* is a 23-year-old woman of colour and a young professional with a lived experience of disability. Sarah has had **both positive and negative experiences of accessing reasonable adjustments in the workplace**. The following case study illustrates Sarah's experience of two different employers and the **impact that reasonable adjustments and an inclusive workplace culture can have**.

Disability discrimination

After a year of working for a Non-Government Organisation, Sarah disclosed her disability and requested reasonable accommodations to attend cultural and trauma informed care training. Her request for accommodations included: break periods and access to a chair during the training which involved some physical elements.

At first Sarah's manager supported Sarah to attend the off-site training. However, once Sarah requested reasonable accommodations to support her participation, her employer suddenly changed their mind deeming the off-site training a 'risk'.

When questioning the decision, Sarah's employer said that because of her psycho-social disability she could not attend the training. Furthermore, that they could not

guarantee the requested reasonable accommodations be upheld as the training was 'off-site'.

As a disabled woman from a culturally and linguistically diverse background, she pointed out the hypocrisy of barring her from attending cultural and trauma informed care training.

After Sarah raised a complaint, her employer said that she could attend the training if she produced a medical certificate stating her 'fitness' beforehand. This requirement was not requested by the employer for any of Sarah's colleagues, and Sarah was discriminated against and singled out because of her disability. Her employer **assessed her 'capacity' and rather than create a supportive and disability inclusive environment, they prevented her from accessing training on an equal basis as her colleagues.**

Sarah went on to provide a certificate of medical and psychological 'fitness' to attend the training. However, she faced considerable emotional harm from her employer assuming her capacity based purely on her disability."

A positive duty

When working for a small non-for profit that **proactively fostered an inclusive culture**, Sarah thrived.

"Accommodations were put in place and my request for a standing desk and flexible work arrangements were met. Rather than fighting for my right to reasonable adjustments, I was able to do my job."

A common misconception is that adjustments are expensive, however evidence shows that most adjustments cost less than $1,000.[41] On this, Sarah noted that:

"Adjustments are cheaper than the cost of discrimination young people with disability face. With my adjustment needs met, I was more productive, felt safe and accepted and was able to show up to work without feeling like I needed to hide a part of me.

Changing the Disability Discrimination Act to include a **positive duty, will ensure that more young people with disability, like Sarah can go to work without fear of disability discrimination.**

**Sarah is not their real name*

[41] JobAccess (2023) Understanding workplace attitudes toward people with disability

Appendix: Further information and resources

CYDA's work is rights-based and informed by the direct experiences and diverse voices and visions of children and young people with disability across Australia. CYDA grounds its work in evidence and a human rights approach. This submission is supported by CYDA's previous work in this area as listed below:

CYDA 2025. CYDA's submission to the Anti-Bullying Rapid Review

CYDA, 2025. CYDA's submission on a Child Safety Annual Reporting Framework

CYDA, 2025. CYDA's submission on Changes to the Disability Standards of Education

CYDA, 2025. Disillusion and Delay: CYDA's survey of the learning experiences of children and young people with disability in 2024

CYDA, 2025. CYDA's submission to the Jobs and Skills Australia Workplan 2025-26

CYDA, 2025. National Principles for the regulation of Assistance Animals, Submission to Department of Social Services

CYDA, 2025. CYDA's submission on Supporting Rights-Based Employment for Young People with Disability

CYDA, 2024. CYDA's submission to the Australian Bureau of Statistics Consultation on Collecting Data about Disability

CYDA, 2024. CYDA's submission on the Online Safety Amendment (Social Media Minimum Age) Bill 2024

CYDA 2024. CYDA's submission to the Senate Inquiry into Better and Fairer Schools (Funding and Reform) Bill 2024

Social Ventures Australia, 2024. Voices on work: young people with disability in Greater Melbourne

CYDA, 2022. Growing up Making Decisions: When best interests are not in the best interests of young people with disability.

CYDA, 2022. Joint Submission to the Disability Royal Commission; Charter of Human Rights

CYDA, 2020. Disability Royal Commission – Response to Restrictive Practices issues paper

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