



Disability discrimination in schools

> Know your rights

The *Equal Opportunity Act 2010* makes it against the law to discriminate against a student in education services because of protected personal characteristics such as age, sex, disability, sexual orientation, religion, race and physical appearance, including height and weight.

'Disability' includes physical, intellectual, psychiatric or mental illness, medical condition, disease, learning disability, and sensory disability.

It is also against the law to discriminate against someone because their parents or someone else they are associated with has these characteristics.

Discrimination is treating, or proposing to treat, someone unfavourably, harassing or bullying them because of one of these characteristics. Discrimination also occurs when a person has to comply with an unreasonable requirement or condition that disadvantages them because of their disability, age, race or other characteristic. For a full list of characteristics and more information about the *Equal Opportunity Act 2010* go to humanrightscommission.vic.gov.au.

The *Equal Opportunity Act 2010* also makes it unlawful to victimise a student or their parents, carers or advocates because they have made a complaint about discrimination.

The *Equal Opportunity Act 2010* requires educational authorities to make reasonable adjustments for a person with disability, and imposes a positive duty to take reasonable and proportionate measures to eliminate discrimination and victimisation in the provision of education.

Disability discrimination in education

It is against the law for an educational authority – including government and private schools, colleges, TAFEs and universities – to treat a student unfavourably in education because of their disability. This might include:

- > refusing or not accepting an application for enrolment
- > suspending or excluding a student because of behaviour associated with their disability
- > not providing adequate support for a student with disability to access education, including aide time
- > allowing the student with disability to be bullied or isolated
- > not providing adequate adjustments in exams.

The *Equal Opportunity Act 2010* also protects parents from being treated unfavourably in the provision of goods and services because of their association with a student with disability. For example, isolating them because they have made a complaint on behalf of their child with a disability.

Michael has cerebral palsy. Michael's parents tried to enrol him in his local school but claims they were told the school already had a number of students with disability and could not find a place for him.

Tiffany uses a wheelchair for mobility. Tiffany's school has said she cannot go on an excursion to a museum because her mum cannot take the day off to look after her on the excursion.

David has difficulty learning at school, which makes him frustrated and this affects his behaviour at school. His doctor is not sure what causes the difficulties. They have suggested some adjustments to how he is taught to see if it helps with his learning, and access to an aide to assist with some activities. The school has said without a formal diagnosis they cannot fund an aide to help David at school. David has been suspended twice for his behaviour.

Kelly has been attending a special school because she has a mild intellectual disability and Autism. Kelly's teacher has recommended she transition to a mainstream school but her enrolment has been refused.

Reasonable adjustments

The *Equal Opportunity Act 2010* requires an educational authority to make reasonable adjustments for a person with a disability if adjustments are required for the person to participate in or derive substantial benefit from an educational program. An educational authority must make those reasonable adjustments unless the person cannot participate, or continue to participate in or derive substantial benefit from an educational program even after those adjustments are made.

Make a complaint to the Commission

If you feel you or your child has been discriminated against in the provision of education services by a public or private school, college, university, TAFE or other educational authority because of disability or another characteristic such as race, colour, national or ethnic origin, sex or age, you can make a complaint to the Commission.

You can call the Commission to discuss your concerns and get more information or you can make a complaint to us by letter, email or via our online complaint form at: humanrightscommission.vic.gov.au/complaints.

When you lodge a complaint we will contact you to discuss the issues and may ask for more information. We can try to help you resolve your complaint through a conciliation process between you and the person you are complaining about. Conciliation may occur through an exchange of phone calls, emails, a telephone conference or a face-to-face meeting.

In some cases we may decide we cannot deal with your complaint. If this happens, we will contact you and explain why. If we can't help you we will try to refer you to someone who can.

Contact us for more information about discrimination in education.



Victorian Equal Opportunity
& Human Rights Commission

Need more information?

Contact the Commission:

Enquiry Line 1300 292 153 or (03) 9032 3583
Fax 1300 891 858
TTY 1300 289 621
Interpreters 1300 152 494
Email enquiries@veohrc.vic.gov.au
Website humanrightscommission.vic.gov.au

We welcome your feedback!

Was this information useful? Easy to use? Would you like to see something else included? Please email us at research@veohrc.vic.gov.au

Published by the Victorian Equal Opportunity and Human Rights Commission, Level 3, 204 Lygon Street, Carlton Victoria 3053. November 2011.

Disclaimer: This information is intended as a guide only. It is not a substitute for legal advice.