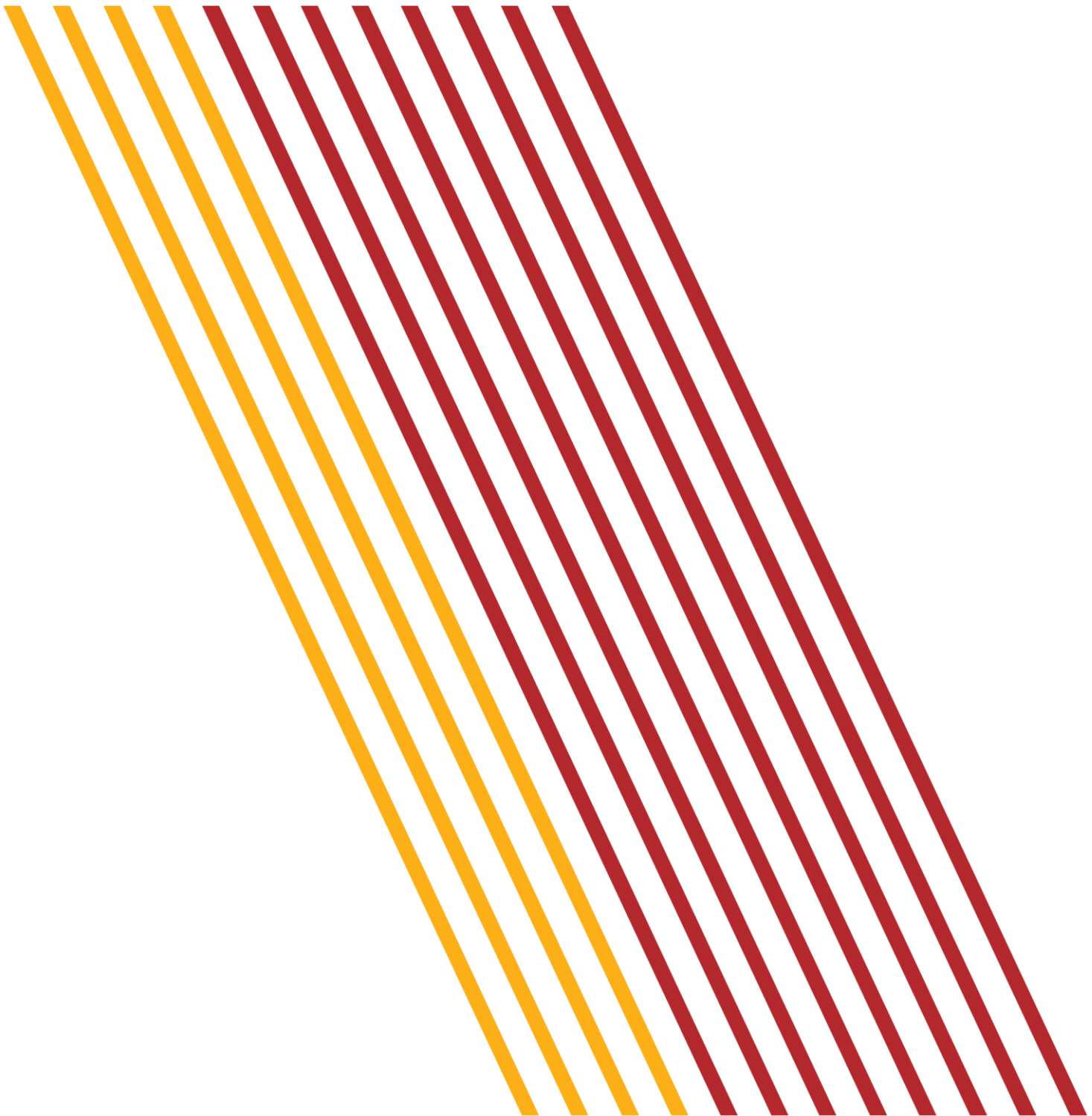


NDIS FUNDED THERAPY AND SCHOOLS



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Introduction

The Department of Education and Training (the Department) supports National Disability Insurance Scheme (NDIS) participants, their families and carers to make the most of the benefits offered by the NDIS. This includes schools providing general information about the NDIS or providing copies of school reports that may assist with NDIS access and planning processes.

Victorian Government schools are also encouraged to support students and their parent(s) or carer(s) in exercising a level of choice and control with their NDIS supports at school where it is safe and practical to do so.

For example, parent(s)/carer(s) may request that an NDIS funded therapist:

- observes their child in the classroom or in the school environment; or
- attends a Student Support Group meeting, to monitor and tailor the support they provide to their child.

In most cases, the school can support both these requests.

Parent(s)/carer(s) may also consider making a request for their child's NDIS funded therapist to deliver therapy regularly at school. These requests can raise some practical, legal, and educational issues for schools that require careful consideration. The decision to approve these requests rests with the school principal in consultation with the School Council.

The Department has prepared these guidelines to give families and NDIS funded therapists information on the process for making a request, and the factors that a school must consider when assessing the request.

About the NDIS

The NDIS is the new way of providing disability support for Australians with disability, their families and carers. The NDIS will provide all Australians under the age of 65 who have a permanent and significant disability with the reasonable and necessary supports they need to enjoy an ordinary life.

The transition to the NDIS is occurring area by area across Victoria, and it is anticipated that by the end of the transition period at 30 June 2019 the number of Victorian NDIS participants will be around 105,000.

Further information about the NDIS, its rollout timetable and eligibility requirements is available at www.ndis.gov.au.

What is funded by the NDIS and what is a school's responsibility?

Generally speaking:

- **Schools** remain responsible for personalising learning and support for students with disabilities **that primarily relate to their education**. This includes teaching, learning assistance and aids, school building modifications and transport between school activities). This is in line with relevant anti-discrimination laws.
- **NDIS** will fund supports that a child needs which **relate to the functional impact of their disability on regular activities that are a part of daily living**. These supports are not primarily related to the child's schooling. Support can include personal care and support and transport to and from school and specialist transition supports to and from school to further education, training or employment.

Importantly, the funding and delivery of personal care in schools and transport to and from school have not yet been finalised. Until these new arrangements are in place, there will be no changes to how these supports are funded and delivered.

Individuals and families also have a role in funding education-related supports, like purchasing school uniforms and paying course fees. These expenses are common to all parents regardless of whether or not their child has a disability and the NDIS will not fund these costs.

NDIS funded therapy for school-aged children

Former system

Before the NDIS, parents and Commonwealth programs such as *Better Start* and *Helping Children with Autism* funded therapy for school-aged children.

Victorian government schools also employ therapists and access Student Support Services to deliver therapy supports.

NDIS funded therapy

The NDIS works as a social insurance scheme. This means therapy will be included in a participant's NDIS support plan *if* the therapy is deemed a reasonable and necessary support for the participant to achieve their individual goals.

For more information about what is a **reasonable and necessary support**, see:

<https://www.ndis.gov.au/participants/reasonable-and-necessary-supports.html>

Therapies funded by the NDIS do not relate to participating and achieving at school. This responsibility remains with the education system, which means schools will continue to employ therapists and access Student Support Services to provide educational supports.

Therapies funded under the NDIS relate to a participant's functional whole of life support needs. They are not for educational purposes.

Key considerations for schools

There are a number of considerations schools must take into account when deciding whether or not to approve a request for an NDIS funded therapist to deliver supports at school. These considerations relate to the child's specific circumstances as well as what will work in the school community.

Safety of students

Duty of Care

Duty of care requires principals and teachers to take all reasonable steps to reduce the risk of any foreseeable harm to all students. An NDIS funded therapist is not a Department or school council employee/contractor and is not under the direction and control of the principal. For this reason, principals must carefully consider whether the school can meet its duty of care obligations to all students.

Duty of care includes:

- providing safe and suitable premises
- providing adequate supervision of students, for example through line of sight to the therapy session or an additional staff member present to supervise the therapy
- ensuring the therapist holds a satisfactory Working with Children Check.

These steps are taken to ensure all children are safe at school.

Child Safe Standards

The Child Safe Standards are compulsory minimum standards for all Victorian early childhood services and schools to ensure they are well prepared to protect children from abuse and neglect. This includes having appropriate practices in place to reduce the risk of child abuse by new and existing personnel and having strategies to identify and reduce or remove risks of child abuse.

In a practical sense, this means schools need to ensure that:

- the space at the school to be used by a therapist is a safe one
- therapists are aware of the school's policies and commitments to the Child Safe Standards. This includes visitor policy, code of conduct, supervision arrangements and internal reporting arrangements.

- parent(s)/carer(s) know what to do if the school has concerns about their child's welfare.

Requests for therapy on school grounds after school hours

The special duty of care owed by principals and teachers to students outside school supervision hours is **very limited**.

In circumstances where:

- therapy is provided by an NDIS funded therapist who has been licenced to use the school grounds, and
- the therapy takes place outside school supervision hours,

there is no requirement for the school to appoint staff to supervise the therapy.

Principals maintain the right to decline a request for private therapy sessions to occur after hours. This may occur if there are concerns about possible risks to a child receiving therapy on school grounds outside school supervision hours. If approved, an adult family member or carer must be present at these sessions.

Reportable Conduct Scheme

The Reportable Conduct Scheme applies to organisations, such as schools, who have a role in the care and supervision of children. Reportable conduct refers to situations where a person has a reasonable belief that there has been:

- a sexual offence, sexual misconduct or physical violence committed against, with, or in the presence of a child. This reasonable belief can occur prior to criminal proceedings commencing
- behaviour causing significant emotional or psychological harm
- significant neglect of a child.

Principals are required to bring all allegations of 'reportable conduct' by employees, contractors, volunteers, allied health staff and school council employees to the attention of the Department's Employee Conduct Branch. The branch will then report these allegations to the Commission for Children and Young People. This scheme extends to NDIS funded therapists.

For more detail about the scheme, how it works and who it applies to see:

<https://ccyp.vic.gov.au/child-safety/resources/guides-and-information-sheets/#TOC-6>

Student access to the curriculum

The primary responsibility of schools is to deliver school programs to students. As such, the school principal needs to consider what impact (if any) NDIS funded therapy may have on a child's access to the curriculum as well as other students and staff.

For example, if the request is for the therapy to be delivered in the classroom, the principal needs to consider whether this may disrupt the class or cause difficulties in the teacher's ability to deliver the lesson to other students. Alternatively, if the request is for therapy outside the classroom, the principal will consider what a child may miss and any impact on their education.

Practical and administrative capacity

Schools need to ensure they have the practical capacity to accommodate NDIS funded therapists providing therapy to students on school grounds. This includes:

- making sure the school has appropriate space available to accommodate the therapy. Does the therapy need to take place in a private space, away from other students and is that space available at the time the therapy is to occur?
- making sure the school has the capacity to manage the increased administration that comes with therapy requests. This is a key consideration for specialist schools with higher numbers of NDIS participants.

Individual circumstances

In making a decision, principals will also consider any specific factors such as:

- a family circumstances (that is, circumstances that may prevent the therapy being delivered outside of school hours)
- the social circumstances of the child
- the distance between home and school
- the flexibility of their school program.

Anti-discrimination obligations

The NDIS will fund a range of specialised supports for school-aged children with a disability. It does not however replace the legal responsibilities of the education system.

In accordance with relevant anti-discrimination laws,^[1] schools remain responsible for providing 'reasonable adjustments' to ensure students with disabilities are able to access their education on the same basis as their peers. Schools are legally obliged to provide these adjustments, regardless of whether or not a student is also receiving NDIS support.

These adjustments may include (but are not limited to):

- modifying programs and adapting curriculum delivery and assessment strategies
- personalised learning and support planning and behaviour management plans
- modifying schools and classrooms to enable physical access to premises
- providing access to the Department funded Visiting Teacher Service and Student Support Services (SSS) program.

A school's legal obligation under the *Disability Discrimination Act 1992* (Cth) is to provide access to education. A principal is unlikely to be in breach of their legal obligations if they decline a request for NDIS funded therapy at school, in circumstances where 'reasonable adjustments' like those listed above are in place.

School council support

NDIS funded therapists delivering services on school grounds are required to enter into a Licence Agreement with the school. Principals will consult with their School Council prior to approval of the Licence Agreement being granted.

^[1] The *Equal Opportunity Act 2010* (Vic), *Disability Discrimination Act 1992* (Cth) and *Disability Standards for Education 2005* (Cth)

Making a Request

Step 1 – Discuss the request with the school

If parent(s)/carer(s) believe there are special circumstances that require their child's NDIS funded therapy to be delivered at school, the parent(s)/carer(s) must first contact the school and ask to speak to the principal (or someone nominated by the principal) about the request.

Step 2 – Complete a consent form and a request form

Depending on the circumstances and the school's ability to accommodate an NDIS funded therapist on school grounds, the parent(s)/carer(s) may be asked to submit a **Parent Consent Form** and **Request Form**.

These forms are important to ensure the school has all the information it needs to make a decision.

Parent Consent Form

A **Parent Consent Form** is required to confirm the parent(s)/carer(s)' consent to both the request for a therapist and for the provision of their child's personal and health information to the school.

The following people may sign the Parent Consent Form:

- a person with parental responsibility for "major long term issues" as defined in the Family Law Act 1975 (Cth)
- a person authorised to make health decisions for the student under the Children Youth and Families Act 2005 (Vic)
- an adult student
- an informal carer
- a mature minor.¹

Request Form

The **Request Form** requires the NDIS funded therapist to provide all relevant information about the request, including:

- the purpose of the proposed therapy
- the proposed dates and times that therapy will occur
- the proposed duration and frequency of therapy
- the proposed aims and benefits of the therapy occurring at school and in school time
- proof of a satisfactory Working with Children Check for the therapist
- confirmation the therapist is an NDIS registered practitioner²
- copies of certificates of currency for insurances held by the therapist (public liability insurance and professional indemnity insurance)

Step 3 – The principal makes a decision

To decide whether to approve an NDIS funded therapist request, principals will use the information provided by the parent(s)/carer(s) and the therapist in the **Request form** and **Parent Consent form** along with all the factors set out in the [Key Considerations](#) section above.

¹ A mature minor is a student who the principal has deemed to be mature in accordance with the Department's Mature Minor policy and is someone who may make a request/consent on their own behalf.

² Most participant's access services from NDIS registered providers who are required to consent to NDIA guidelines, terms of business, and extensive background checks. Self-managing participants can choose to employ unregistered providers and schools will consider any increased risks associated with unregistered providers.

Finalising a decision

The principal will make their decision on a case-by-case basis. This means it is possible that some requests will be approved by a principal, whereas others may not be. While the decision will be based on the individual circumstances of each request, it is important that the process for reaching a decision will be a consistent one.

Communicating the decision

Regardless of the outcome, the principal will communicate to the parent(s)/carer(s) and the therapist the reasons for their decision.

Step 4 – Practical arrangements

If the principal approves NDIS funded therapy to take place at school, they will take the following actions:

Meeting with the NDIS funded therapist and parents/carers

Before therapy at the school can commence, a meeting needs to take place between the parent(s)/carer(s), the school and the NDIS funded therapist. The meeting outcomes should be recorded by the school and a copy kept on the child's school file.

The payment for NDIS funded therapists to attend meetings is to be funded from the child's NDIS plan.

The purpose of this meeting is to confirm operational arrangements including:

- when, how often and where the therapy will take place (physical location)
- supervision arrangements
- parent(s)/carer(s) attendance at the therapy sessions
- notification arrangements - for instance, if the therapist has to change an appointment or a child is absent from school that day, who is responsible for notifying who
- whether the parent(s)/carer(s) would like the NDIS funded therapist to attend Student Support Group meetings.

At this meeting, the therapist will be provided with the following documents:

- A **Licence to Use School Premises** and
- an **Information Sharing Agreement**.

Licence to use school premises

If an NDIS funded therapist attends school premises on a regular basis, they must sign a **Licence to Use School Premises**. This same licensing requirement applies to any person operating a private business on school grounds.

An NDIS funded therapist will not be allowed to commence providing regular therapy on school grounds until the **Licence to Use School Premises** is signed and returned to the school.

The **Licence to Use School Premises** contains important provisions including:

- details of the therapist's insurance,
- supervision arrangements
- and the need to follow all reasonable instructions, directions and requests of the principal.

A new **Licence to Use School Premises** is not required for every changed circumstance (i.e. a change in the day a child receives therapy). However, each student receiving therapy will require a separate **Parent Consent Form**, **Therapy Request Form** and **Information Sharing Agreement**.

If there is a change in therapist to one employed by the same company, a new **Parent Consent Form**, **Therapy Request Form**, including Working with Children check details, and new **Information Sharing Agreement** is required.

If the school agrees to a change request, the **Licence to Use School Premises** should be amended to take account of the changes.

Information Sharing Agreement

The **Licence to Use School Premises** includes an **Information Sharing Agreement**. This needs to be signed by the NDIS funded therapist. The **Information Sharing Agreement** sets out how and when the therapist must share information about a child with the school. The aim of this information sharing is to ensure that the NDIS funded therapist provides information to the school that it 'needs to know' to enable the school to support a child and fulfil key legal obligations. Under [Step 2](#) of these Guidelines, the parent(s)/carer(s) will have consented to specific types of information being shared with the school by the NDIS funded therapist. This is done via the **Parent Consent Form**.

Dual Servicing Arrangements

Principals will inform relevant school-based therapists and Student Support Services staff about the services being delivered by the NDIS funded therapist to a child. This is to ensure services are coordinated.

Parent(s)/carer(s) role

As part of the parent(s)/carer(s) role in their child's NDIS plan, they may have a service agreement with the provider they have chosen for their child's therapy support. If it is agreed that the service will be delivered at school, this will remain the case and the parent(s)/carer(s) will continue to be responsible for:

- letting the NDIS funded therapist know that the school has approved them working with their child at school at the agreed times and any other conditions;
- telling the NDIS funded therapist as soon as possible if their child is absent from school on a day on which the therapist is supposed to go to the school;
- telling the NDIS funded therapist if other activities at school mean that therapy cannot take place. For example, when sports carnivals, excursions, or special events or assemblies are scheduled;
- telling the school if they stop using the service or change providers; and
- meeting or talking regularly with school staff to inform them how the service is going.

Further information

Advice and Assistance

A Local Area Coordinator is an NDIA partner organisation with strong community connections, local knowledge and expertise. A NDIA Local Area Coordinator may assist parent(s)/carer(s) to make contact and discuss their child's needs with the school where appropriate.

Dispute Resolution

If parent(s)/carer(s) are unhappy with the final decision or the manner in which the request was handled they are entitled to lodge a complaint. Complaints should be made directly to the school in the first instance. To understand how a complaint will be dealt with, parent(s)/carer(s) can request a copy of the school's complaints policy and procedures or view them on the school's web page.

If a complaint remains unresolved after the school has been contacted, the complaint will be referred to the Department's regional office. The Independent Office for School Dispute Resolution is the final step in the Department's dispute resolution and complaints process.

The complaints policy and other useful information regarding making a complaint can be found at:

www.education.vic.gov.au/school/parents/complaints/Pages/procedure.aspx