Early Learning Commission

Ref: RML26/2587
8 September 2026

Mr Chiang Lim
19 Fennell Street
Parramatta, NSW 2150

Email: chiang.lim@childcarealliance.org.au

Dear Mr Lim,

I write in response to your email of 10 August 2026 to Mr Daryl Currie, Commissioner, NSW Early Learning Commission, regarding the updated Disability Standards for Education 2005. The Commissioner has asked me to respond on his behalf.

Thank you for your email regarding the commencement of the amended Disability Standards for Education and the interaction between the Standards and the paramountcy principle under the Children (Education and Care Services) National Law (NSW).

The NSW Early Learning Commission (the Commission) acknowledges the importance of the issues you have raised and the concerns of the sector about ensuring that children with disability are supported to access and participate in early childhood education and care, while also meeting obligations to ensure that children's safety, rights and best interests are the paramount consideration.

The Commission does not consider these obligations to be in conflict.

The paramountcy principle does not require services to adopt a zero-risk approach or to exclude children because they may require additional support, adjustments or individualised strategies to enable their safe and meaningful participation. A child's disability, support needs or the fact that a service must consider and implement reasonable adjustments should not, of itself, be treated as creating an unacceptable compliance risk.

Rather, decisions concerning individual children should be made having regard to the circumstances of the child, including their safety, rights, wellbeing, developmental needs and best interests. This may involve working with the child and their family, educators and, where appropriate, relevant support professionals to identify risks, consider reasonable adjustments and put appropriate strategies in place to support the child's participation.

The amended Disability Standards for Education 2005 clarify the obligations of relevant early childhood education and care providers under the Disability Discrimination Act 1992,

including in relation to ensuring that children with disability can access and participate in education on the same basis as other children and receive reasonable adjustments. Guidance on the specific obligations arising under the Disability Standards is appropriately provided by the Australian Government and ACECQA. As noted in your correspondence, these resources can be found at: https://www.education.gov.au/disability-standards-education-2005 and https://www.acecqa.gov.au/resources/disability-discrimination-act-1992-dda-resources.

The Commission's role is to regulate compliance with the National Quality Framework and the NSW specific requirements applying to education and care services. In exercising this role, the Commission does not expect approved providers or services to respond to the paramountcy principle by adopting a blanket or risk-averse approach to the enrolment of children with disability.

We also recognise the broader operating environment identified in your letter, including workforce pressures and the challenges experienced by services in accessing appropriate inclusion supports. While these matters extend beyond the Commission's regulatory responsibilities, we will continue to engage with relevant Commonwealth and NSW agencies and sector stakeholders on issues affecting the capacity of services to meet their obligations.

For further information you can contact the NSW Early Learning Commission via email at information@earlylearningcommission.nsw.gov.au, or call the Information and Enquiries hotline on 1800 619 113.

Sincerely,



Kristian Holz
Deputy Commissioner, Strategy & Integrity
NSW Early Learning Commission