



Disability Discrimination Policy (Students)



**SILVER LINING FOUNDATION AUSTRALIA LTD ('SLFA')
VERSION 3, NOVEMBER 2024**

POLICY DETAILS

Purpose:	The purpose of this policy is to protect students with a disability or students who have an associate with a disability from unlawful discrimination, harassment and victimisation on the basis of that disability.	
Scope: (who policy applies to)	This policy applies to students and employees, including full-time, part-time, permanent, fixed-term and casual employees, as well as contractors, volunteers and people undertaking work experience or vocational placements.	
Accreditation and Governance Requirements for Schools:	To attain and maintain accreditation, section 11 of <i>Education (Accreditation of Non-State Schools) Regulation 2017</i> provides that a school must have, and implement, written processes for identifying students at the school who are persons with a disability and devising an educational program, specific to the educational needs of those students. The educational program for each student with a disability must comply with the <i>Anti-Discrimination Act 1991 (Cth)</i> and the Disability Standards under section 31 of the <i>Disability Discrimination Act 1992 (Cth)</i> .	
References and Related Policies:	<p><u>Legislation:</u></p> <ul style="list-style-type: none"> ▪ Anti-Discrimination Act 1991(Qld) ▪ Australian Human Rights Commission Act 1986 (Cth) ▪ Disability Discrimination Act 1992 (Cth) ▪ Disability Standards for Education 2005 (Cth), including Guidance Notes ▪ Australian Education Act 2013 (Cth) ▪ Australian Education Regulations 2023 (Cth) <p><u>Other resources:</u></p> <ul style="list-style-type: none"> ▪ Understanding the NCCD on the Nationally Consistent Collection of Data on School Students with Disability website. <p><u>SLFA Policy and Procedure:</u></p> <ul style="list-style-type: none"> ▪ Child Protection Policy ▪ Child Risk Management Strategy ▪ Staff Code of Conduct ▪ Complaints Handling Policy (and procedures) ▪ SLFA NCCD Guidelines 2024 	
Policy Status:	Version 3 - Approved	Supersedes: Version 2 September 2022
Authorised by:	School's Governing Body	Date of Authorisation: November 2024
Review Date:	Every 2 (two) (years or as required)	Next Review Date: November 2026
Policy Owner:	SLFA School Governing Body (the Board of Directors)	

POLICY REVIEW RECORDS

Version Number	Date of Authorisation	Review Due Date	Date Reviewed	Review Outcome
1	July 2018	July 2020	September 2020	Policy modified.
2	September 2020	September 2022	November 2024	General modifications or updates and formatted.
3	November 2024	November 2026		

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POLICY STATEMENT

(Note: **bolded and underlined terms** on this page are defined below under 'Definitions').

All students at an SLFA School have the right to learn in an environment free from unlawful discrimination and all students with disability have a right to the same educational opportunities as other students.

SLFA Schools will provide a fair, inclusive and safe learning environment where all students have equal opportunity to obtain an education. In particular, SLFA Schools will ensure that students with a disability are provided with learning opportunities which help them to realise their potential through participating in education and training **on the same basis** as other students.

In accordance with the relevant law, SLFA Schools are committed, while students are engaging in their education, to protecting students with a disability and students associated with a person where that person has a disability, from both **direct and indirect**:

- discrimination on the basis of disability; or
- harassment and victimisation on the basis of disability.

In accordance with the relevant law, SLFA Schools will take reasonable steps to prevent unlawful discrimination, including harassment and victimisation, against students on the basis of disability in all facets of education at its Schools, including in areas relating to:

- enrolment;
- participation;
- curriculum development, accreditation and delivery; and
- student support services.

SLFA Schools will eliminate, as far as possible, discrimination against persons on the ground of disability in the area of education and training and will ensure, as far as practicable, that persons with disabilities have the same rights to equality before the law in the area of education and training as the rest of the community. SLFA Schools will promote recognition and acceptance within the community, based on the principle that persons with disabilities have the same fundamental rights as the rest of the community.¹

SLFA Schools will make **reasonable adjustments** that do not cause *unjustifiable hardship* on students with disability, or the school, to ensure that students with a disability are given equality of access to and participation in learning and education.

SLFA Schools are committed to responding appropriately should such discrimination, harassment or victimisation occur, including possible disciplinary action. Any instances of disability discrimination, harassment or victimisation should be reported under the *Complaints Handling Policy*.

DEFINITIONS

- **Disability**: in relation to a person, means:
 - a) total or partial loss of the person's bodily or mental functions; or
 - b) total or partial loss of a part of the body; or
 - c) the presence in the body of organisms causing disease or illness; or
 - d) the presence in the body of organisms capable of causing disease or illness; or
 - e) the malfunction, malformation or disfigurement of a part of the person's body; or

¹ *Disability Discrimination Act 1992* (Cth) s 3; [Disability Standards for Education 2005 plus Guidance Notes](#), page 8.

- f) a disorder or malfunction that results in the person learning differently from a person without the disorder or malfunction; or
- g) a disorder, illness or disease that affects a person's thought processes, perception of reality, emotions or judgment or that results in disturbed behaviour;

and includes a disability that:

- h) presently exists; or
- i) previously existed but no longer exists; or
- j) may exist in the future (including because of a genetic predisposition to that disability); or
- k) is imputed to a person.

To avoid doubt, a *disability* that is otherwise covered by this definition includes behaviour that is a symptom or manifestation of the disability.²

▪ **Associate**, in relation to a person, includes:

- a) a spouse of the person; and
- b) another person who is living with the person on a genuine domestic basis; and
- c) a relative of the person; and
- d) a carer of the person; and
- e) another person who is in a business, sporting or recreational relationship with the person.³

▪ **Direct disability discrimination**: a person (the *discriminator*) *discriminates* against another person (the *aggrieved person*) on the ground of a disability of the aggrieved person if, because of the disability, the discriminator treats, or proposes to treat, the aggrieved person less favourably than the discriminator would treat a person without the disability in circumstances that are not materially different.

A person (the *discriminator*) also *discriminates* against another person (the *aggrieved person*) on the ground of a disability of the aggrieved person if:

- a) the discriminator does not make, or proposes not to make, reasonable adjustments for the person; and
- b) the failure to make the reasonable adjustments has, or would have, the effect that the aggrieved person is, because of the disability, treated less favourably than a person without the disability would be treated in circumstances that are not materially different.

For the purposes of direct disability discrimination, circumstances are not *materially different* because of the fact that, because of the disability, the aggrieved person requires adjustments.⁴

▪ **Indirect disability discrimination**: a person (the *discriminator*) *discriminates* against another person (the *aggrieved person*) on the ground of a disability of the aggrieved person if:

- a) the discriminator requires, or proposes to require, the aggrieved person to comply with a requirement or condition; and

² *Disability Discrimination Act 1992* (Cth) s 4.

³ *Disability Discrimination Act 1992* (Cth) s 4.

⁴ *Disability Discrimination Act 1992* (Cth) s 5(1)-(3).

- b) because of the disability, the aggrieved person does not or would not comply, or is not able or would not be able to comply, with the requirement or condition; and
- c) the requirement or condition has, or is likely to have, the effect of disadvantaging persons with the disability.

A person (the **discriminator**) also **discriminates** against another person (the **aggrieved person**) on the ground of a disability of the aggrieved person if:

- a) the discriminator requires, or proposes to require, the aggrieved person to comply with a requirement or condition; and
- b) because of the disability, the aggrieved person would comply, or would be able to comply, with the requirement or condition only if the discriminator made reasonable adjustments for the person, but the discriminator does not do so or proposes not to do so; and
- c) the failure to make reasonable adjustments has, or is likely to have, the effect of disadvantaging persons with the disability.⁵

- **Adjustments:** Each of the following is an **adjustment** under the Disability Standards for Education 2005:

- a) a measure or action (or a group of measures or actions) taken by an education provider (i.e. an SLFA School) that has the effect of assisting a student with a disability:
 - i) in relation to an admission or enrolment — to apply for the admission or enrolment; and
 - ii) in relation to a course or program — to participate in the course or program; and
 - iii) in relation to facilities or services — to use the facilities or services;

on the same basis as a student without a disability, and includes an aid, a facility, or a service that the student requires because of his or her disability;
- b) the provision of access and facilitation by the education provider to specialised support services which enable a student with a disability to participate in activities for which they are enrolled;⁶
- c) if a change is made to an adjustment mentioned in paragraph (a) or (b) — the adjustment is affected by the change.⁷

- **Reasonable adjustment:** an adjustment to be made by a person is a **reasonable adjustment** unless making the adjustment would impose an unjustifiable hardship on the person.⁸

An adjustment is **reasonable** in relation to a student with a disability if it balances the interests of all parties affected.⁹

- **Harassment in education:** It is unlawful for a person who is a staff member of SLFA or its Schools to harass another person who:
 - a) is a student at a SLFA School or is seeking admission to a SLFA School as a student; and
 - b) has a disability;

in relation to the disability.¹⁰

⁵ *Disability Discrimination Act 1992 (Cth)* s 6(1)-(2).

⁶ Disability Standards for Education 2005 standards 3.3, 7.2(4).

⁷ Disability Standards for Education 2005 standard 3.3.

⁸ *Disability Discrimination Act 1992 (Cth)* s 4.

⁹ Disability Standards for Education 2005 standard 3.4.

¹⁰ *Disability Discrimination Act 1992 (Cth)* s 37.

Harassment:

- a) in relation to a *person with a disability*, includes an action taken in relation to the person's disability that is reasonably likely, in all the circumstances, to humiliate, offend, intimidate or distress the person; and
 - b) in relation to a person who has an *associate with a disability*, includes an action taken in relation to the associate's disability that is reasonably likely, in all the circumstances, to humiliate, offend, intimidate or distress the person or the associate.¹¹
- **Victimisation:** a person (*the victimiser*) is taken to commit an act of victimisation against another person (*the victim*) if the victimiser subjects, or threatens to subject, the victim to any detriment on the ground that the victim makes or proposes to make a complaint or bring proceedings against the victimiser under relevant laws.¹²
 - **'On the same basis' means:**
 - a) A person with a disability is able to seek admission to, or apply for enrolment in, an SLFA School *on the same basis* as a prospective student without a disability if the person has opportunities and choices in admission or enrolment that are comparable with those offered to other prospective students without disabilities.
 - b) A SLFA School, as the education provider, treats a prospective student with a disability *on the same basis* as a prospective student without a disability, if the SLFA School makes any decisions about admission or enrolment on the basis that reasonable adjustments will be made so that a prospective student with a disability can participate in school programs and activities and use school facilities and services.
 - c) A person with a disability is able to participate in courses or programs provided by an SLFA School, and use the facilities and services provided by it, *on the same basis* as a student without a disability if the person has opportunities and choices in the courses or programs and in the use of the facilities and services that are comparable with those offered to other students without disabilities.¹³

RESPONSIBILITIES

The Disability Standards for Education (the 'Disability Standards') are formulated under the *Disability Discrimination Act 1992* (Cth) (the 'DDA'). The Disability Standards provide a framework for SLFA and its Schools to ensure that students with disability are able to access and participate in education *on the same basis* as students who do not have a disability. The primary purpose of the Disability Standards is to clarify, and make more explicit, the obligations of education and training providers under the DDA and the rights of people with disabilities in relation to education and training.¹⁴

SLFA Schools

SLFA Schools will implement the following for students with disabilities who are enrolled or are seeking enrolment, to ensure that they are provided with opportunities to realise their individual potential through their participation in education and training on the same basis as students without disabilities, at that they are not subject to discrimination:¹⁵

- **Enrolment** – take reasonable steps to ensure that a student with a disability is able to seek admission to, or apply for enrolment in, an SLFA School *on the same basis* as a prospective student

¹¹ Disability Standards for Education 2005 standard 8.1.

¹² *Disability Discrimination Act 1992* (Cth) s 42.

¹³ Disability Standards for Education 2005 standards 2.2, 4.2, 5.2, 6.2 and 7.1.

¹⁴ Disability Standards for Education 2005 plus Guidance Notes, point 1.

¹⁵ Disability Standards for Education 2005, Guidance Notes, point 4.

without a disability, and without experiencing discrimination.¹⁶

- **Participation** – take reasonable steps to ensure that a student with a disability is able to participate in the courses or programs provided by an SLFA School, and use the facilities and services provided by an SLFA School, *on the same basis* as a student without a disability, and without experiencing discrimination.¹⁷
- **Curriculum development, accreditation and delivery** – take reasonable steps to ensure that courses and programs are designed in such a way that a student with a disability is able to participate in the learning experiences (including the assessment and certification requirements) of the course and program *on the same basis* a student without a disability, and without experiencing discrimination.¹⁸
- **Student support services** – take reasonable steps to ensure that a student with a disability is able to use support services used by other students at an SLFA School in general *on the same basis* as a student without a disability, and without experiencing discrimination.¹⁹
- **Harassment and victimisation** – develop and implement strategies and programs to prevent harassment or victimisation of a student with a disability, or a student who has an associate with a disability, in relation to the disability.²⁰

The reasonable steps that SLFA Schools may take in relation to each student's admission, enrolment, participation in a course or program or their use of facilities and services, will depend upon the specific circumstances surrounding a student at the time of making a decision. Reasonable steps by SLFA Schools may include not making a reasonable adjustment, where that adjustment would impose an unjustifiable hardship on the School.²¹

SLFA Schools will take the following steps for students with a disability when they are seeking or applying for enrolment or during the course of a student's enrolment:

- Consult with the student (and their family/carers) about whether the disability affects the student's ability to seek or apply for enrolment;
- Consider, based on the information provided, whether an adjustment is necessary for the student;
- If an adjustment is necessary, identify an adjustment that is reasonable;
- Consult with the student (and their family/carers) about whether the adjustment is reasonable, and the extent to which the adjustment would achieve the desired aims for the student;²²
- Consider whether the reasonable adjustment would impose an unjustifiable hardship on the SLFA School; and
- Ensure that any adjustment required for the student is made within a reasonable time.²³

Any confidential information provided to SLFA, or its Schools for the purpose of making an adjustment will not be disclosed except for the purposes of the adjustment or in accordance with a lawful requirement.²⁴

¹⁶ Disability Standards for Education 2005 standard 4.2.

¹⁷ Disability Standards for Education 2005 standard 5.2.

¹⁸ Disability Standards for Education 2005 standard 6.2.

¹⁹ Disability Standards for Education 2005 standard 7.2.

²⁰ Disability Standards for Education 2005 standard 8.3.

²¹ Disability Standards for Education 2005 Guidance Notes, point 4.2.

²² Disability Standards for Education 2005 standard 3.4 – 3.6.

²³ Disability Standards for Education 2005 standard 3.7; point 4 of the Guidance Notes.

²⁴ Disability Standards for Education 2005 Guidance Notes, point 4.3.

Students and SLFA Employees

All students and SLFA employees have a responsibility not to engage in discriminatory conduct, including harassment and victimisation, and to uphold SLFA's policies on these issues.

If students, parents/carers or employees believe that such behaviour is occurring or has occurred, they can make a complaint under the SLFA's *Complaints Handling Policy*.

IMPLEMENTATION

SLFA Schools will implement procedures and take all necessary steps to prevent discrimination against students on the basis of disability. SLFA and its Schools will follow the Disability Standards to ensure that students with disability are provided with opportunities to realise their potential through participating in education and training *on the same basis* as other students.

AWARENESS

SLFA will inform staff, students and parents/carers of this policy through avenues such as staff inductions and staff meetings, and publication of the policy on the SLFA website – <https://www.silverlining.org.au>

TRAINING

SLFA will ensure ongoing training for staff about this policy and Disability Standards and will discuss policy and procedure during staff meetings on a regular basis.

COMPLAINTS PROCEDURE

Suggestions of non-compliance with this policy may be submitted as a complaint under the SLFA *Complaints Handling Policy*.

RECORD KEEPING

SLFA will maintain confidential records of all matters arising under this policy. SLFA's student Enrolment Application and its *Privacy Policy* set out how it manages personal information provided to or collected by SLFA, as required under the *Privacy Act 1988* (Cth).

CULTURE

SLFA will strenuously aim to remove any discriminatory or offensive materials, rules and practices and encourage students, parents, carers and employees to contribute to a healthy culture and environment.

NCCD DATA COLLECTION

The *Nationally Consistent Collection of Data on School Students with Disability* ('NCCD') collects information (data) about Australian school students with a disability on an annual basis and the data is report to the Australian Government in accordance with the *Australian Education Regulation 2023* (Cth). The purpose of the data collection is to enable schools, education authorities and governments to better understand the needs of students with disability and how they can be best supported at school.

Under the [Disability Discrimination Act 1992](#) and the [Disability Standards for Education 2005](#), Australian students with disability must be able to access and participate in education on the same basis as their peers. To ensure this, students with disability may receive adjustments to access education, based on

the professional judgement of teachers, in consultation with the student and/or their parents, guardians or carers.

In accordance with the *Australian Education Regulations 2023* (Cth), SLFA Schools have a legal obligation to report the following information for each student with disability – and all information submitted is deidentified (i.e. does not identify any students).

Each student's:

- category of disability;
- level of adjustment;
- year of schooling; and
- if not full-time, the fraction of their full-time study load they are undertaking (i.e. part-time);
- any other information instructed by the NCCD Guidelines; and
- any other information determined by any legislation as being necessary for the purposes of this data collection.²⁵

The SLFA NCCD Guidelines set out how SLFA Schools will facilitate and manage the collection of data for students identified with a disability.

RESOURCES

SLFA NCCD Guidelines

The SLFA NCCD Guidelines aim to ensure consistency and integrity in the types of evidence that SLFA and its Schools collect for NCCD reporting and they explain how data is managed and stored for audit purposes. SLFA Schools must work within these guidelines when developing their school-based processes for the collection of NCCD evidence.

SLFA NCCD Guidelines are updated on a regular basis – generally on an annual basis to ensure that these internal guidelines incorporate any changes to legislation, regulations, standards, codes, etc.

Disability Standards for Education 2005 plus Guidance Notes

<https://www.education.gov.au/swd/resources/disability-standards-education-2005-plus-guidance-notes>

Professional Learning Resources

<https://www.nccd.edu.au/resources-and-tools/professional-learning/format/e-learning-5>

NCCD Guidelines (Australian Government)

<https://www.nccd.edu.au/tools/nccd-guidelines-1>

(Note: guidelines may change from year to year; the most current version should be used at any given time. Access or request the most current guidelines version at <https://www.nccd.edu.au>).

²⁵ Regulation 58A.

EMPLOYEE DECLARATION

Policy Declaration Form

I acknowledge that I have read the **DISABILITY DISCRIMINATION POLICY (STUDENTS)**, that I understand its content and that any questions I may have had about this policy have been clarified to me.

I understand that it is my responsibility to perform any obligations and responsibilities under this policy, any related policies and any relevant legislation, to the best of my ability and that I should continue to seek clarification or ask questions about the policy, procedures and any of my obligations under it, should I need to.

I understand that I can seek guidance or assistance from my supervisor and other SLFA leadership and executive staff whenever I need to.

EMPLOYEE SIGNATURE

Name:	
Job Title:	Signature:
Work Location: (e.g. school name, Central Office, Saddler Springs, etc)	Date: dd / mm / yyyy

EXECUTIVE OFFICER* OR PRINCIPAL / HEAD OF CAMPUS

Name:	Signature:
Job Title:	Date: dd / mm / yyyy

*Note: Governance Officer may sign as Executive Officer's delegate.

RECORD KEEPING PROCEDURE:

1. **Employee:** **SCAN** fully signed and completed form to admin@slfa.edu.au and cc your supervisor (e.g. Principal, Executive Officer) into the email.
2. **Supervisor:** **FILE** scanned form in employee's hardcopy HR folder at work site.
3. **Central Office:** **SAVE** scanned form to employee's digital Staff PD & Training folder in 365 and update the Policy Training Register.
4. **Employee:** keep a hard or digital copy of the signed form for your own personal records (you can email a copy to your personal email if you wish to).