

# Prevention of Harassment and Bullying Policy

## Scope

This Policy is applicable to Kaplan Higher Education Pty Ltd, trading as Murdoch Institute of Technology (“the School”). This Policy applies when a claim of harassment (including sexual assault and sexual harassment), bullying or discrimination concerns a student enrolled with the School and where the conduct complained about occurred on the School’s campus or where the conduct is related to the School’s activities.

## Purpose

This Policy assist the School to meet its responsibilities and obligations under State and Federal anti-discrimination and equal opportunity laws. It provides information and clear guidelines on understanding and preventing unlawful discrimination and harassment and outlines the process for handling behaviour that breaches this Policy.

## Commitment to Prevention of Harassment, Sexual Harassment, Sexual Assaults and Bullying

The School is committed to maintaining a teaching and learning environment that is free of harassment (including sexual assaults and sexual harassment), bullying and discrimination, which values and fosters good working relationships that enable staff and students to be treated with dignity and respect. In some instances, harassment might take place outside the learning and teaching environment, for instance at a student event, or when a student or staff member makes unwelcome social media comments regarding another student or staff member.

Bullying and harassing behaviour is unacceptable and will not be tolerated by the School. Further, any retaliation against an individual who has complained of harassment, or retaliation against individuals for cooperating with an investigation of a complaint, will not be tolerated. A claim of harassment may also form grounds for complaint under relevant anti-discrimination legislation.

The School takes allegations of bullying and harassment (including sexual assaults and sexual harassment) seriously. Allegations of bullying and harassment involving students will be handled with sensitivity and impartiality and in accordance with the complaint process outlined in this Policy. Where it is determined that harassment has occurred, the School will act promptly to eliminate the improper conduct and take corrective action as is necessary, including disciplinary action where appropriate.

Australian law prohibits harassment on the basis of race, national or ethnic origin, gender, disability (i.e. physical, intellectual, psychiatric, sensory, neurological or learning disabilities and illnesses such as HIV/AIDS), sexual orientation, religious background, marital status, pregnancy or potential pregnancy, political belief, family status,

criminal record and age. While the definition of sexual harassment is described in detail, this policy applies to all forms of harassment.

The School expects its staff and students to act in a courteous manner that involves treating others with respect and dignity in interpersonal dealings. Staff and students are also expected to raise issues of concern, where they are apparent.

## Definitions

### What is Harassment?

**Harassment** is unwelcome conduct that a reasonable person would consider offensive, humiliating or intimidating. Harassment:

- May be verbal, written, visual, psychological, physical or by electronic means e.g. by email
- Will be uninvited and unwelcome. Readers should take into account that behaviour, words and gestures have different meanings in different cultures. What may be acceptable in one culture may not be in another.
- May occur as a single incident or as a series of incidents
- May be subtle and implicit rather than explicit
- May involve an abuse of power or trust and/or directed at a person who is unable to stop the behaviour

### What is Sexual Assault?

**Sexual assault** is any unwanted sexual behaviour that makes a person feel uncomfortable, threatened or scared. It covers:

- Rape: forced, unwanted sex or sexual acts.
- Child sexual abuse: using power over a child or young person to involve them in sexual activity.
- Indecent assault: indecent behaviour before, during or after an assault.

### What is Sex-based Harassment?

**Sex-based harassment** is unwelcome conduct of a sexual nature, which a reasonable person would expect to cause the harassed person, offence, humiliation or intimidation, or would give that person any reason to believe that she or he would be disadvantaged in any way by refusing to accept or tolerate the sexual harassment.

Sexual harassment may include (but is not limited to):

- physical contact (for example, touching, patting or unnecessary familiarity)
- demands for sexual favours or persistent demands for out of study social activities
- offensive or demeaning comments, jokes and innuendo such as leering
- unwelcome or uncalled for remarks or insinuations about a person's sexual activities or private life

### What is Bullying?

**Bullying** is repeated behaviour that a reasonable person would consider to be humiliating, intimidating, offensive, undermining or threatening. Many people interchangeably refer to bullying as harassment or discrimination. However, bullying may not be covered under anti-discrimination legislation unless the bullying is linked to, or based on, one of the attributes covered by various anti-discrimination legislation (such as age, sex, race and disability).

Bullying behaviour can range from obvious verbal or physical assault to subtle psychological abuse. Bullying behaviour may include, repeated:

- physical or verbal abuse

- yelling, screaming or offensive language
- excluding or isolating others
- persistent teasing, joking or holding a person up to ridicule
- repeatedly addressing others in a manner which is sarcastic or designed to humiliate
- deliberately changing class times to inconvenience particular students
- deliberately withholding information that is vital for effective performance
- sabotaging others' work.

### What is Discrimination?

Discrimination is the singling out of a person or group for special favour or disfavour. In Australia, discrimination based on certain grounds may form the basis for complaint by an individual under relevant State or Federal anti-discrimination legislation or under unlawful termination provisions. Unlawful grounds include sex, marital status, pregnancy, parental status or family responsibilities, sexuality, race, colour, descent, national or ethnic origin, disability or medical condition, religion, age, criminal record or political belief or activity. Unlawful discrimination may be direct or indirect. Indirect discrimination occurs where a rule, practice or policy, which on its face appears to be neutral, in effect has a disproportionate impact on members of a certain group. A student not being able to undertake a subject because they have a disability and cannot access the lecture room where classes are being undertaken is an example of indirect discrimination. Indirect discrimination is however, not unlawful when the rule, practice or policy is reasonable, having regard to the circumstances of the case.

## Policy Statements

It is unacceptable for any staff member or student to harass (including sexually harass or assault), bully or discriminate others. Employees and students guilty of engaging in harassing, bullying or discriminating behaviour will be subject to disciplinary action, which may include termination of their employment/study with the School.

Further to specific harassment and discrimination legislation, under Occupational Health and Safety Acts, employers and employees and education providers have a legal responsibility to comply with any measures that promote health and safety in the workplace. Because of this duty, employers need to eliminate or reduce the risks to employees' health and safety caused by workplace harassment, bullying and discrimination.

The School advises all staff and students that it will take a "zero-tolerance" approach to sexual assault and sexual harassment and other forms of harmful misconduct. The School will report to the relevant authorities and regulators all incidents that indicate material breaches in safety or preventative controls, including recurring incidents of sexual assault or sexual harassment.

## Reporting Incidents

To ensure that the School's learning and teaching environment is free of harassment (including sexual assault and harassment), bullying and discrimination, the School has established the following reporting process to address such incidents.

Any person who believes that they have been the subject of harassment or who believe that they witnessed a student harassing another should:

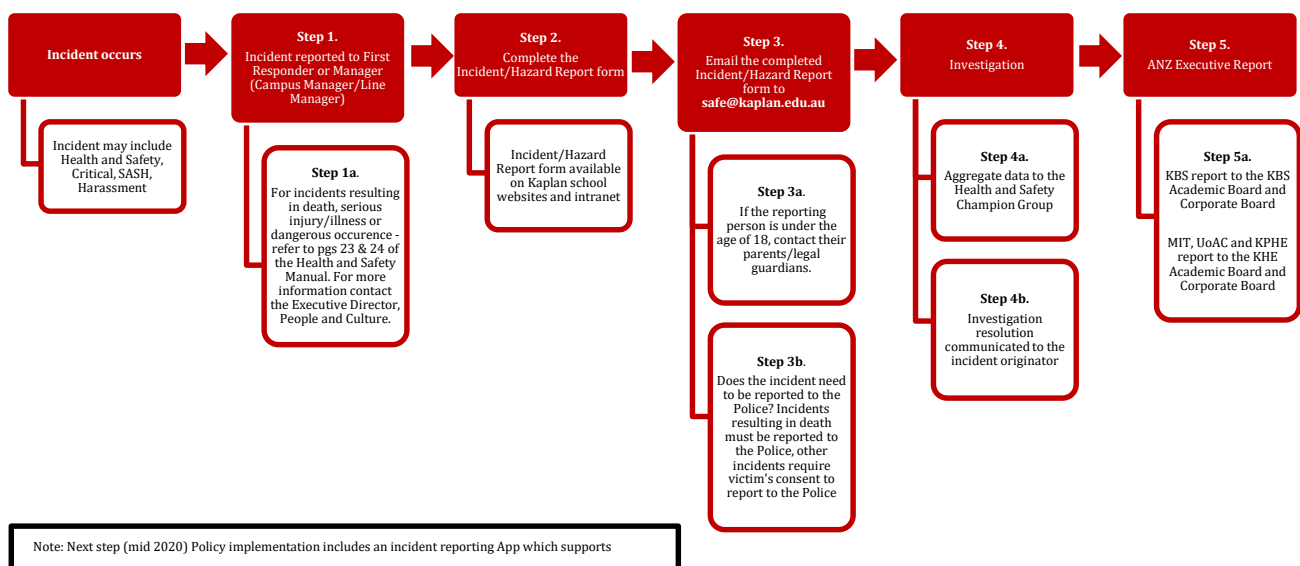
- Use the "*Incident/Hazard Report*" form to report the incident. The form can be found on the School's website at following link: <https://www.murdochinstitute.wa.edu.au/policies/>

- Immediately report the situation in confidence to a First Responder or the relevant Campus Manager. The report may be done verbally or in writing using the “*Incident/Hazard Report*” form.

All reports made verbally are to be recorded on the “*Incident/Hazard Report*” form and sent to [safe@kaplan.edu.au](mailto:safe@kaplan.edu.au).

A person reporting an incident will **not** be required to report the perceived issue to an individual whom they believe is causing or condoning the issue. If the particular circumstances make reporting the conduct to the above listed individuals inappropriate, the person reporting the incident may choose to send the report via email to: [safe@kaplan.edu.au](mailto:safe@kaplan.edu.au).

The reporting process is outlined in the diagram below:



Students will **not** be required to report the perceived issue to an individual whom the student believes is causing or condoning the issue. If the particular circumstances make reporting the conduct to the above listed individuals inappropriate, the student can report the situation to any available Manager.

All reports of harassment (including sexual assault and sexual harassment) will be promptly and confidentially investigated to the extent practicable in the circumstances. The investigation may include a private interview with the person reporting the incident, witnesses, and the person alleged to have committed the harassment. Victimisation of any party will not be tolerated. Each situation will be assessed on a case-by-case basis and the investigative process will follow procedural fairness guidelines.

At the completion of the investigation, to the extent appropriate in the circumstances, the investigator(s) will inform the person reporting the incident and the person alleged to have committed the harassment of the results of the investigation.

Persons reporting an incident of bullying, harassment or sexual assault/harassment, are assured that they will not be victimised or disadvantaged for doing so.

## Corrective or Disciplinary Action

Where it is determined that harassment (including sexual assault and sexual harassment), bullying or discrimination has occurred; prompt action will be taken to eliminate the offending conduct. Corrective or disciplinary action will be taken as appropriate and may include:

- Actions ranging from counselling to termination of employment or study, or
- Other forms of disciplinary/ corrective action as deemed appropriate in the circumstances.

Kaplan recognises that there may be false accusations of harassment and retaliatory conduct resulting from a report of harassment. In such circumstances, disciplinary action may extend to the person deemed to have made a false complaint or a person responsible for retaliatory action.

## Relevant Legislation

As a registered education provider, the School operates under strict laws and regulations. Policies and procedures are in place to ensure compliance with such laws.

Below, please find the most relevant legislation which apply to this policy:

Australia Federal Criminal Code Act 1995 <https://www.legislation.gov.au/Details/C2019C00152>

WA Criminal Code Act Compilation Act 1913

[https://www.legislation.wa.gov.au/legislation/statutes.nsf/main\\_mrtitle\\_218\\_homepage.html](https://www.legislation.wa.gov.au/legislation/statutes.nsf/main_mrtitle_218_homepage.html)

Australian Human Rights Commission Act 1986 (Cth) <https://www.legislation.gov.au/Details/C2019C00030>

Anti-Discrimination Act 1977 <https://www.legislation.nsw.gov.au/#/view/act/1977/48>

Sex Discrimination Act 1984 (Cth) <https://www.legislation.gov.au/Details/C2018C00499>

Work Health and Safety Act 2011 (Cth) <https://www.legislation.gov.au/Details/C2017C00305>

Privacy Act 1988 (Cth) <https://www.legislation.gov.au/Details/C2019C00025>

Tertiary Education Quality and Standards Agency Act 2011 (TEQSA Act)

<https://www.legislation.gov.au/Details/C2017C00271>

Higher Education Standards Framework (Threshold Standards) 2015

<https://www.legislation.gov.au/Details/F2015L01639>

Education Services for Overseas Students Act 2000 (ESOS Act 2000)

<https://www.legislation.gov.au/Details/C2017C00292>

Education Services for Overseas Students Regulations 2001

<https://www.legislation.gov.au/Details/F2016C00681>

National Code of Practice for Providers of Education and Training to Overseas Students 2018

<https://www.legislation.gov.au/Details/F2017L01182>

## Related Policies

Other relevant policies to be used together with this policy (to be found currently at following link

<https://www.murdochinstitute.wa.edu.au/policies/>):

- Sexual Harassment Prevention and Response Policy
- Critical Incident Management Policy
- Student Misconduct Policy
- Electronic Media Policy
- Diversity, Inclusion and Equity Policy
- Health and Safety Policy
- Privacy Policy
- Grievances, Complaints and Appeals Policy
- Assessment Policy/ Special Circumstances
- Reasonable Adjustments Policy
- Student Orientation Program
- Staff On-boarding Program (available from People and Culture Team)
- Student Code of Practice

- Staff Code of Conduct (available from People and Culture Team)

## Version Control and Accountable Officers

It is the joint responsibility of the Implementation Officer and Responsible Officer to ensure compliance with this policy.

<b>Policy Category</b>	Academic			
<b>Responsible Officer</b>	Vice President, Academic			
<b>Implementation Officer</b>	College Director or equivalent			
<b>Review Date</b>	September 2022			
<b>Approved by</b>				
Academic Board				
Version	Authored by	Brief Description of the changes	Date Approved:	Effective Date:
1.1	Academic Quality and Governance Team	Policy reviewed for currency as per policy review cycle. Changes include: <ul style="list-style-type: none"> <li>• Policy retitled to 'Prevention of Harassment and Bullying Policy to better reflect policy content.</li> <li>• Clarification that this policy should be used when students are involved in bullying, harassment or discrimination claim.</li> <li>• Changes to policy structure and language to improve coherency.</li> <li>• Introduction of Implementation Officer and</li> </ul> Escalation of matters changed to General Manager Student Experience and General Manager, National Operations as appropriate.	01.03.2017	16.03.2017
1.2	Quality, Regulations and Standards Team	Included "sexual assaults and sexual harassment" across the policy to reflect the requirements of the HES Framework, Standards 2.3.1 – 2.3.5, regarding fostering an environment of wellbeing and safety for its students and staff. Also, included list of "Relevant Legislation" and "Related Policies".	05.09.2019	09.09.2019
1.3	Quality, Regulations and Standards Team	Simplified the title of the policy to avoid confusion with the "Sexual Misconduct Prevention and Response Policy". Clarified reporting line. Added a reporting process diagram.	30.01.2020	03.02.2020