

Prevention of Harassment and Bullying Policy

Scope

This policy applies to Kaplan International Languages in Australia and New Zealand (hereby referred to as “Kaplan”), as follows:

- Sydney – Kaplan International English (Australia) Pty Ltd (ABN 31 003 631 043) trading as *Kaplan International – Sydney*
- Melbourne/Adelaide – Kaplan International (Melbourne & Adelaide) Pty Ltd (ABN 90 129 017 385) trading as *Kaplan International - Melbourne* and *Kaplan International – Adelaide*
- Perth – Kaplan International (Perth) Pty Ltd (ABN 76 079 200 212) trading as *Kaplan International – Perth*
- Brisbane – Kaplan International (Brisbane) Pty Ltd (ABN 81 097 629 073) trading as *Kaplan International – Brisbane*
- Auckland – Kaplan International NZ Ltd (NZBN 942903921210) trading as *Kaplan International - Auckland*

This policy applies when a claim of harassment (including sexual assault and sexual harassment), bullying or discrimination concerns a Kaplan student and where the conduct complained about, occurred at a Kaplan School or where the conduct is related to Kaplan activities.

Purpose

This Policy assists Kaplan to meet its responsibilities and obligations under Australian State and Federal anti-discrimination and equal opportunity laws and New Zealand Government Acts. 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 and Bullying

Kaplan 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 at Kaplan and will not be tolerated. 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.

Kaplan 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, Kaplan will act promptly to eliminate the improper conduct and take corrective action as is necessary, including disciplinary action where appropriate.

Australian and New Zealand laws prohibit 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.

Kaplan 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.
- An act of violence and non-consensual physical contact.

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
- using technology to send inappropriate text messages, photos, videos.

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. Discrimination based on certain grounds may form the basis for complaint by an individual under relevant Australian State or Federal anti-discrimination legislation, New Zealand Government Acts 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 at Kaplan for any staff member or student to harass (including sexually harass or assault), bully or discriminate others. Staff 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 Kaplan.

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.

Kaplan 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.

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

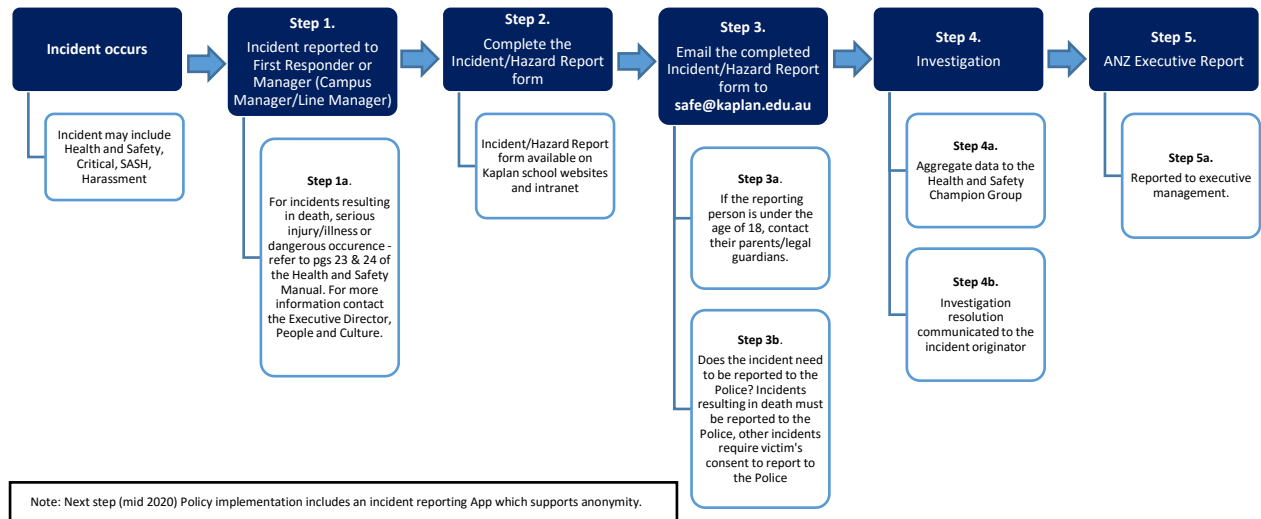
Any person who believes that they have been the subject of harassment or who believe that they witnessed an individual harassing another should:

- Use the "Incident/Hazard Report" form to report the incident. The form can be found on Kaplan's website at following link: <https://www.kaplaninternational.com/terms-and-conditions>
- Immediately report the situation in confidence to a First Responder or the relevant 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 and/or to 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 .

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 the Director of Studies, Student Services Manager or Student Welfare Officer.

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, Kaplan International Languages 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:

Australian Legislation:

Australia Federal Criminal Code Act 1995

<https://www.legislation.gov.au/Details/C2019C00152>

NSW Crimes Act 1900 No 40

<https://www.legislation.nsw.gov.au/#/view/act/1900/40>

VIC Crimes Act 1958

[http://www.legislation.vic.gov.au/Domino/Web_Notes/LDMS/LTObject_Store/LTObjSt10.nsf/DDE300B846EED9C7CA257616000A3571/20A702BEFB5D226CCA25814F001A34BF/\\$FILE/58-6231aa270%20authorised.pdf](http://www.legislation.vic.gov.au/Domino/Web_Notes/LDMS/LTObject_Store/LTObjSt10.nsf/DDE300B846EED9C7CA257616000A3571/20A702BEFB5D226CCA25814F001A34BF/$FILE/58-6231aa270%20authorised.pdf)

QLD Criminal Code Act 1899

<https://www.legislation.qld.gov.au/view/pdf/inforce/current/act-1899-009>

SA Criminal Law Consolidation Act 1935

<https://www.legislation.sa.gov.au/LZ/C/A/CRIMINAL%20LAW%20CONSOLIDATION%20ACT%201935.aspx>

WA Criminal Code Act Compilation Act 1913

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>

New Zealand Legislation:

Crimes Act 1961

<http://www.legislation.govt.nz/act/public/1961/0043/latest/DLM327382.html?src=qs>

Harmful Digital Communications Act 2015

http://www.legislation.govt.nz/all/results.aspx?search=ts_act%40bill%40regulation%40deemedreg_Harmful+Digital+Communications+Act+2015_resel_25_a&p=1

Harassment Act 1997

http://www.legislation.govt.nz/all/results.aspx?search=ts_act%40bill%40regulation%40deemedreg_Harassment+Act+1997_resel_25_a&p=1

Employment Relations Act 2000

http://www.legislation.govt.nz/all/results.aspx?search=ts_act%40bill%40regulation%40deemedreg_Employment+Relations+Act+2000_resel_25_a&p=1

Health and Safety at Work Act 2015

http://www.legislation.govt.nz/all/results.aspx?search=ts_act%40bill%40regulation%40deemedreg_Health+and+Safety+at+Work+Act+2015_resel_25_a&p=1

Human Rights Act 1993

http://www.legislation.govt.nz/all/results.aspx?search=ts_act%40bill%40regulation%40deemedreg_Human+Rights+Act+1993_resel_25_a&p=1

New Zealand Bill of Rights Act 1990

http://www.legislation.govt.nz/all/results.aspx?search=ts_act%40bill%40regulation%40deemedreg_New+Zealand+Bill+of+Rights+Act+1990_resel_25_a&p=1

Privacy Act 1993

http://www.legislation.govt.nz/all/results.aspx?search=ts_act%40bill%40regulation%40deemedreg_Privacy+Act+1993_resel_25_a&p=1

Education Act 1989

http://www.legislation.govt.nz/all/results.aspx?search=ts_act%40bill%40regulation%40deemedreg_Education+Act+1989_resel_25_a&p=1

Education (Pastoral Care Of International Students) Code Of Practice 2016 (as amended in 2019)

[http://www.legislation.govt.nz/all/results.aspx?search=ts_act%40bill%40regulation%40deemedreg_Education+\(Pastoral+Care+Of+International+Students\)+Code+Of+Practice+2016_resel_25_a&p=1](http://www.legislation.govt.nz/all/results.aspx?search=ts_act%40bill%40regulation%40deemedreg_Education+(Pastoral+Care+Of+International+Students)+Code+Of+Practice+2016_resel_25_a&p=1)

Related Policies

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

<https://www.kaplaninternational.com/terms-and-conditions>

- Assessment Policy / Special Circumstances
- Electronic Media Policy
- Grievances, Complaints and Appeals Policy
- Kaplan Diversity, Inclusion and Equity Policy
- Kaplan Privacy Policy
- Kaplan Sexual Harassment Prevention and Response Policy
- Student Code of Practice/Conduct (under review).

The following internal policies and documents are available within the Company and support this Policy:

- Incident Reporting Procedure (in Kaplan H&S Manual)
- Kaplan Critical Incident Management Policy
- Kaplan Health and Safety Policy
- Kaplan Staff On-boarding Program (available from People and Culture Team)
- Kaplan Staff Code of Conduct (available from People and Culture Team)
- Reasonable Adjustments Guidelines
- Special Consideration Guidelines
- Student Misconduct Policy
- Student Orientation Program.

Version Control and Accountable Officers

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

Policy Category	Operations			
Responsible Officer(s)	Principle Executive Officer			
Implementation Officer(s)	Regional Director Academic			
Review Due Date	June 2021			
Approved by:				
Principal Education Officer				
Version	Authored by	Brief Description of the changes	Date Approved	Effective Date
2.0	Kaplan Australia Quality, Regulations and Standards Team.	Revised policy based on Kaplan Australia Policy. Includes NZ legislation and an update to Step 5 of the reporting process diagram.	19.5.2020	02.06.2020