

## **Procedure Title**

### **Sexual Assault and Sexual Harassment Prevention and Response Procedure**

#### **Preamble**

This procedure aligns with and supports the College's Student Sexual Assault and Sexual Harassment Policy.

#### **Purpose**

It also identifies the Reporting options for Students and the responsibilities and actions the University may take.

#### **Scope**

This procedure applies to all members of the Deakin College Community who wish to make a Report of Sexual Assault or Sexual Harassment by current Students, staff members or stakeholders with regard to College Related Conduct

#### **Policy**

Sexual Assault and Sexual Harassment Prevention and Response Procedure

#### **Related Documentation**

Complaints Policy

Equity and Diversity Policy

Student Code of Conduct Policy

Code of Conduct UPA (Navitas)

Privacy Policy

Wellbeing, Health and Safety Policy

## **1. What can someone do if they witness a person being sexually assaulted or harassed?**

**1.1.** If a staff member, student or visitor on campus at Deakin College witnesses a person being sexually assaulted or harassed they can help by offering support to the person.

This can be done by:

- I. refusing to join in with any sexually harassing behaviour;
- II. offering to act as a witness if the person being sexually harassed decides to report the incident; and
- III. backing them up or supporting the person to say no to the harassment.

## **2. What can a person do if they feel that they are being Sexually Harassed or Assaulted?**

**2.1.** If a Deakin College staff member, student, volunteer or visitor believes that they have been, or are being, sexually harassed or sexually assaulted they can:

- I. If possible and they feel able, promptly speak to the offender directly or in writing that their behaviour is offensive and unacceptable and request that it stop immediately;
- II. If they feel that they are not able to speak or write to the offender themselves, they can seek advice from their supervisor, manager, or student support staff for support in maintaining their safety and resolving the issue;
- III. When harassers seem dangerous (for example, if a harasser refuses to leave the premises and threatens physical violence, call the police before reporting to their supervisor or manager and the HR Business Partner;
- IV. Keep confidential records about the harassment noting:
  - what happened;
  - when and where the harassing occurred;
  - the names of witnesses.
- V. Make an internal complaint which will follow the process described in Section 3. Students should make the complaint to a first responder (see definition Safer Campus Community Group). Staff members can make their complaint to a first responder, to
- VI. The College Director and Principal or to Navitas HR. All complaints will be treated seriously, investigated promptly, impartially and confidentially.
- VII. Make an External Complaint, which can be made to:
  - i. Victorian Equal Opportunity and Human Rights Commission;
  - ii. The Australian Human Rights Commission; or
  - iii. Fair Work Australia Ombudsman.

### **3. Reporting and investigating issues related to Sexual Assault and Sexual Harassment**

**3.1.** A complainant can disclose an incident of sexual assault or sexual harassment without the details being shared with any other person, including the member who has inflicted the alleged sexual assault or sexual harassment. However, in all instances, Deakin College has an obligation to do the following:

- I. Take any action to ensure the immediate safety of the complainant, the member and any identified third party;
- II. Make a mandatory report of suspicion of sexual assault or sexual harassment occurring to any member of the Deakin College community who is under the age of 18; and

- III. Do all possible to preserve evidence and, with full agreement of the complainant, report an alleged instance of sexual assault to the police.
- 3.2.** If the person receiving the disclosure is not a nominated first responder, the person should support the complainant in accessing and talking with a trained first responder.
- 3.3.** Where a complainant chooses to report an incident of sexual assault or sexual harassment to a first responder, the first responder will:
  - I. Provide referral to the appropriate support services including contact information for Safer Community at Deakin University or sexual assault support services external to Deakin College;
  - II. Support a complainant to make a report of the incident if they wish to do so;
  - III. Refer a report of sexual assault and sexual harassment made by a student to the College Director and Principal unless the complaint is about the College Director and Principal;
  - IV. Refer a report of sexual assault and sexual harassment made by a staff member to the Navitas HR Business Partner;
  - V. Refer a report of sexual assault and sexual harassment made by a student to the Navitas HR Business Partner if the complaint is about the College Director and Principal; and
  - VI. Support the complainant in reporting the incident to the police if the complainant chooses to do so.
- 3.4.** An investigation will be undertaken on receipt of a report of sexual assault or sexual harassment from a complainant, following the principles of natural justice in a manner that is respectful to both the complainant and the respondent and reinforces the importance of confidentiality to the complainant, the respondent and any support people. The investigation will be conducted by the following parties:
  - I. If the respondent is a student, the report will be referred to the College Director and Principal (or nominee) to initiate an investigation unless the report refers to alleged sexual assault or sexual harassment perpetrated by the College Director and Principal in which case 3.4(iii) will apply;
  - II. If the respondent is a staff member or is engaged by Deakin College under any other contractual arrangement, the report will be referred to the Navitas HR Business Partner in the first instance to initiate an investigation or appropriate response. A report will be presented to the College Director and Principal unless the complaint relates to the College Director and Principal in which case 3.4(iii) will apply;

- III. If the report relates to alleged sexual assault or sexual harassment perpetrated by the College Director and Principal, the report should be referred directly to the Navitas HR Business Partner who will conduct an investigation and provide the outcome of the investigation to Deakin College Board of Directors for a final decision.
- 3.5.** Respondents will be provided with details of the complaint made against them, and will be given 10 working days, or such other time specified by the investigator to consider and provide a response to the complaint.
- 3.6.** Where facts differ between the details provided by the complainant and the response provided by the respondent, witnesses may also be interviewed as a part of the investigation. Information will not be unnecessarily disclosed to witnesses, and the importance of confidentiality will be reinforced.
- 3.7.** Information gathered during the investigation will be documented by the investigator and a report will be prepared.
- 3.8.** The decision about any action required arising from the outcome of the investigation will be determined by:
- I. The College Director and Principal unless the complaint refers to alleged sexual assault or sexual harassment perpetrated by the College Director and Principal;
  - II. The Deakin College Board of Directors if the complaint refers to alleged sexual assault or sexual harassment perpetrated by the College Director and Principal.
- 3.9.** This outcome must take into consideration:
- I. Appropriate policies and procedures as well as external legal obligations, if the respondent is a student;
  - II. The relevant employment contract's Terms and Conditions if the respondent is a staff member; or,
  - III. The relevant contract if the respondent has been engaged by Deakin College under any other contractual arrangement.

If the matter has been reported to the police, Deakin College will not take any action that may compromise the police investigation or subsequent proceedings. Deakin College will continue to make support resources available during this period and may take other interim measures to safeguard the complainant, respondent and other members of the community following consultation with police. On completion of the police investigation Deakin College may undertake appropriate actions in alignment with its policies and code of conduct.

## Definitions

Key Term or Acronym	Definition
Sexual Assault	Occurs when a person is forced, coerced or tricked into sexual acts against their will or without their consent, or if a child or young person under 18 years of age is exposed to sexual activities. Sexual assault is a crime of violence.
Sexual Harassment	Any unwanted, unwelcome or uninvited behaviour of a sexual nature which a person should expect will make the recipient feel humiliated, intimidated or offended. Sexual harassment can take many different forms and may include physical contact, verbal comments, jokes, propositions, the display of offensive material or other behaviour which creates a sexually hostile working or study environment
First Responder	<p><b>Student Counsellor</b>  <a href="mailto:dcoll-counselling@deakin.edu.au">dcoll-counselling@deakin.edu.au</a> or call +61 4 9043 2256.</p> <p>Means a designated member of Deakin College who, as part of their substantive duties, may provide appropriate support and information to anyone who has been subjected to sexual assault and sexual harassment whether recent or historic. Or who will assist with referral to Safer Community.</p>
Safer Community	<p>A free, confidential support service provided by Deakin University for those of the university community who experience concerning, threatening, inappropriate or uncomfortable behaviour.</p> <p>Email <a href="mailto:safercommunity@deakin.edu.au">safercommunity@deakin.edu.au</a> or call +61 5227 2100 to find out any further information and supports available.</p>

## Status and Details

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