

Policy	
Sexual Assault and Sexual Harassment Prevention and Response	
1. Policy Statement	SAE Institute Pty Ltd (SAE) is committed to creating an environment that is safe and inclusive for all members of our community and one in which staff and students are treated with courtesy, respect and dignity. Sexual assault and sexual harassment (SASH) are unacceptable, will not be tolerated under any circumstances, and these behaviours constitute misconduct.
2. Purpose	In responding to SASH, SAE will be guided by compassion, cultural competence and natural justice, will provide support and ensure the protection of confidentiality and privacy. The safety and wellbeing of the person disclosing or formally reporting sexual assault or sexual harassment will be considered as a priority in responding to and investigating disclosures and providing support. Compliance with this Policy will foster and maintain student, staff, and public trust and confidence in the integrity and professionalism of SAE. Staff are expected to promote and protect the interests and maintain and enhance the reputation of SAE.
3. Scope	<p>This policy applies in the context of SAE's operations in Australia and applies to:</p> <ul style="list-style-type: none"> • all students or prospective students of SAE, irrespective of their place of residence, campus or mode of study • all staff of SAE, irrespective of their campus and mode of teaching • activities conducted as part of deployment on SAE business or as a representative of SAE such as student internships, exchanges and study tours • activities affiliated with SAE, such as student clubs and social media • students living in on-campus accommodation • contractors and visitors to SAE. <p>Procedures for SAE campuses internationally may vary in compliance with statutory requirements in other countries of operation. Students enrolled with SAE who transfer their studies to a campus outside Australia and therefore have their enrolment with SAE in Australia terminated, are required to adhere to the guidelines, policies and procedures of the legal entity to which they have transferred.</p>
4. Associated Policies & Procedures	<p>This Policy should be read in conjunction with the policies and rules of both SAE and Navitas Group and with the relevant State or Federal legislation, as appropriate and as amended from time to time, which may include but are not limited to:</p> <ul style="list-style-type: none"> • Anti-Discrimination Act 1977 (NSW) • Child Protection (Prohibited Employment) Act 1998 (NSW) • Crimes Act 1914 (Fed) • Crimes Act 1900 (NSW) • Disability Discrimination Act 1992 (Fed) • Equal Opportunity for Women in the Workplace Act 1999 (Fed) • Human Rights and Equal Opportunity Commission Act 1986 (Fed) • Occupational Health and Safety Act 2000 (NSW) • Occupational Health and Safety Regulation 2001 (NSW) • Privacy and Personal Information Protection Act 1998 (NSW Sex Discrimination Act 1984 (Fed) Crimes Act 1900 s61(NSW) Criminal Code Act 1899: ss347–349, read with s1 Sexual assault, s352(QLD) Criminal Law Consolidation Act 1935 s48, read with ss5(1), (3) & 48A (SA) Crimes Act 1958: ss38 & 38A, read with s35 (VIC)

	<p>Criminal Code Act 1913 s319, read with ss325–326 (W.A) Anti-Discrimination Act 1977 Queensland Sex Discrimination Act 1984 South Australia – Equal Opportunity Act 1984 Victoria – Equal Opportunity Act 2010 Children, Youth and Families Act 2005 (Vic.), Sections 124A and 124B Crimes Act 1958 (Vic.), Section 327 Western Australia Children and Community Services Act 2004 (WA), Sections 124A and 124B Child Protection Act 1999 (Qld), Part 1AA, Sections 13e and 13f Education (General Provisions) Act 2006 (Qld), Sections 364, 365, 365A, 366, 366A South Australia Children's Protection Act 1993 (SA), Sections 6, 10 and 11, Children and Young Persons (Care and Protection) Act 1998 (NSW), Sections 23 and 27</p>
<p>5. Associated Documents</p>	<ul style="list-style-type: none"> • <u>Code of Conduct - Policy</u> • <u>Sexual Assault and Sexual Harassment Disclosures and Reporting Procedure</u> • <u>Sexual Assault and Sexual Harassment Disclosures and Reporting Form</u> • <u>Student Grievance, Complaints and Appeals Policy</u>
<p>6. Policy</p>	<p>6.1 Respect for Law and Governance</p> <p>Staff and students of SAE are required to observe and comply with all relevant Federal and State laws, statutes and prescribed requirements (refer to associated documents section 4 for examples) as well as SAE's policies and rules.</p> <p>6.2 Staff responsibilities</p> <p>Ensuring SAE is a safe, respectful and inclusive community is the responsibility of all. Staff are encouraged to identify, report and where possible prevent or remedy problems and concerns related to the prevention and timely response to sexual harassment and sexual assault. This may occur during general communication in the performance of their role, by discussion, participation in meetings, training and projects, and by submitting a report to the Campus Manager or the Director of Student Experience suggesting process improvement or educative and support strategies to strengthen inclusion, safety and wellbeing.</p> <p>Members of the Executive Management Group and national functional managers are responsible for reviewing and approving process improvement reports, for investigating the cause(s) of potential problems identified, for initiating preventative action to eliminate the problem or potential problem, for verifying that approved process improvements have been implemented and preventative action has taken place to prevent or reduce sexual harassment and sexual assault and that this action complies with relevant Commonwealth and State law / legislation.</p> <p>6.3 Definitions</p> <p><i>Consent</i> Except for the ACT, every Australian jurisdiction has a statutory definition of consent based on one of the following three approaches:</p> <ul style="list-style-type: none"> • free agreement; • free and voluntary agreement; or • consent freely and voluntarily given. <p>A person is unable to consent if they are:</p>

- Asleep, unconscious or significantly affected by drugs or alcohol
- Unable to understand what they are consenting to
- Are pressured or coerced with threats, force, fear, or harm to self or someone else
- Under the age of consent.

Sexual assault

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 is exposed to sexual activities. Sexual assault is attempted, or actual sexual contact performed without the active, verbal consent and positive physical cooperation of another individual.

Examples of sexual assault include:

- sexual intercourse without consent
- oral sex without consent
- anal sex without consent
- groping and any physical contact such as patting, pinching or touching in a sexual way without consent

Sexual harassment

An unwelcome sexual advance, unwelcome request for sexual favours or other unwelcome conduct of a sexual nature which makes a person feel offended, humiliated and/or intimidated, where a reasonable person would anticipate that reaction in the circumstances.

Sexual harassment is a form of sex discrimination, can be obvious or indirect, can be physical or verbal, can be repeated or one-off and can be perpetrated by any gender towards any gender.

The Sex Discrimination Act 1984 (Cth) defines the nature and circumstances in which sexual harassment is unlawful. It is also unlawful for a person to be victimised for making, or proposing to make, a complaint of sexual harassment to the Human Rights and Equal Opportunity Commission.

Examples of sexually harassing behaviour include:

- unwelcome touching
- staring or leering
- suggestive comments or jokes
- sexually explicit pictures, screen savers or posters
- unwanted invitations to go out on dates
- requests for sex;
- intrusive questions about a person's private life or body
- unnecessary familiarity, such as deliberately brushing up against a person
- insults or taunts based on sex
- sexually explicit physical contact
- sexually explicit emails or SMS text messages, or messaging on social media.

Some of these may have implications under criminal law, for example, sexual assault, indecent exposure, stalking or obscene communications.

6.4 Preparedness

SAE trains staff to respond to disclosures of SASH, (including where these lead to formal reports) as part of a First Responder Network (FRN). These staff are trained to understand principles of compassion, cultural competency, reporting

and investigating procedures, confidentiality and privacy. First Responder staff are supported by the DOSE.

6.5 Support

SAE provides on-campus support and counselling through Student Counselling, Student Services Advisors (SSAs), National Manager of Counselling and Wellbeing, National Manager of Student Experience and DOSE. Holders of these staff positions are qualified and experienced in sexual assault and harassment counselling and/or trained First Responders. The contact details and information about the services provided by national and local specialist SASH services, forensic, medical, legal and police services and emergency health, counselling, and accommodation providers is maintained on the SAE website and provided to the FRN through training and an FRN Handbook. Training and referral information also acknowledges the experiences, needs and perspectives of distinct student sub-groups, including, but not limited to:

- students who identify as transgender or gender diverse
- students who identify as LGBTIQ
- Aboriginal and Torres Strait Islander students
- students with a disability
- culturally and linguistically diverse students
- international students.

6.6 Disclosures

Disclosure of sexual assault and/or sexual harassment can be made to any member of the SAE community and can be made anonymously. Anonymous disclosures are made by using the online [Sexual Harassment and Sexual Assault Disclosures and Reporting](#) form and are recorded in a way that does not identify the person or persons involved. Anonymous disclosures are used by SAE purely as a means of tracking incidents and identifying any patterns of incidents.

When a disclosure is made, the safety and wellbeing of the person making the disclosure will be SAE's priority. By making a disclosure, a student will be able to access support, both within SAE and the local community. Students will also be able to access adjustments as appropriate, such as such as changes to assessment deadlines, enrolment records, timetabled classes or campus location.

A disclosure will not be treated as a formal report and information will not be provided to other parties unless either agreed to by the person making the disclosure or as required by mandatory reporting requirements under legislation, particularly for those who are aged under 18.

6.7 Incidence Reporting

De-identified thematic reports will be distributed to Campus Managers, the Executive Management Group, Academic Board and the SASH Working Party quarterly.

6.8 Staff reports

Staff reports can be made according to Procedures outlined in [Anti-Discrimination and the Prevention of Harassment, Vilification and Bullying Policy – Australia](#).

6.9 Investigation limits

An SAE investigation process is not a substitute for a criminal process. This policy may not apply where a formal report is made about someone external to SAE and there are limits on any sanctions SAE can impose. Where an incident occurs that is, or may later be, reported to the police, there may be limits on the ability of SAE to complete an investigation. Limitations apply to SAE's ability to investigate misconduct alleged against former students or staff, or to investigate historic complaints.

SAE does not have the same investigative resources or mandate as the police. Where there are serious allegations of criminal behaviour, a student or staff member should consider making a police complaint. SAE will also investigate anonymous and named disclosures where there are circumstances and/or risk serious enough to warrant investigation.

6.10 Precautionary Actions

Precautionary actions are non-disciplinary actions that may be imposed in response to a disclosure or formal report. The purposes of precautionary actions are:

- to ensure the safety and wellbeing of the affected individual/s
- to discourage or prevent victimisation and retaliation
- prevent further incidents
- preserve SAE's ability to conduct the investigation.

Precautionary Actions are not considered sanctions/penalties under any reporting/disciplinary process and are without prejudice to the person against whom the complaint is made.

Where a student alleges sexual assault and/or harassment by a staff member, an investigation will be conducted by Human Resources in consultation with DOSE.

6.11 Reporting to police

The decision to make a report to the police will remain with the person making the disclosure unless mandatory reporting is required by legislation. Making a formal report to an external organisation such as the police does not preclude making a report to SAE and will not preclude SAE from taking internal action.

6.12 Disclosures and Reporting

Principles guiding disclosure and reporting ensure all matters are:

- Treated seriously and with fairness
- Dealt with promptly, simply and at the level of the specific campus as far as is possible
- Treated consistently across SAE
- Subject to the principles of natural justice
- Cognisant that sexual assault and harassment may be experienced or perpetrated by people regardless of their sexuality or gender identity
- Progressed through informal and formal stages of the Sexual Assault and Sexual Harassment Disclosures and Reporting Procedure
- Dealt with and resolved wherever possible without recourse to the formal stage of the Sexual Assault and Sexual Harassment Disclosures and Reporting Procedure, and shall be without prejudice to a complainant's right to pursue external legal remedies after having exhausted all internal SAE grievance procedures
- The procedures set out in this Policy and in the Sexual Assault and Sexual Harassment Disclosures and Reporting Procedure do not replace

or modify procedures or any other responsibilities which may arise under other higher education provider policies or under any other law

- Instigated with a trauma-informed approach, mindful of:
 - the health, safety and wellbeing of the person making the report, including their access to specialist and appropriate services
 - avoiding causing further harm or any penalty to the reporting person, including minimising the number of times they need to recount their experience and not imposing significant changes to their routine
 - the health, safety and wellbeing of the SAE community
 - outcomes sought by the person making the report
 - whether there is a legal duty to report the incident
 - assigning different staff to provide support to the person making the report and the person about whom the report is made to avoid any conflict of interest.

All parties allegedly involved in a SASH incident should be advised that SAE cannot determine whether a crime or a civil wrong has occurred; rather, it can only determine whether someone has, on the balance of probabilities, breached SAE's Code of Conduct or other relevant policy or agreement.

All parties allegedly involved in a SASH incident should be provided with information on potential sanctions that may be imposed if SAE determines that misconduct has occurred.

Students are entitled to have a support person, or people, with them when they disclose, make a formal report, attend associated meetings or access SAE's counselling or support services.

Any member of SAE staff or any SAE student who experiences sexual harassment and/or sexual assault is encouraged to make a disclosure or report. There are three different levels of disclosure, and the decision about whether to do one, two or all three rests with the person making the disclosure. They may choose to:

- make an anonymous disclosure
- make a named disclosure
- make a formal report.

Information on how to make disclosures and reports are outlined in the [Sexual Assault and Sexual Harassment Disclosures and Reporting Procedure](#).

6.13 Retention of Records

SAE will retain appropriate records for all Formal Reports for a period of five years and allow parties to the complaint, appropriate access to these records. All records pertaining to formal grievances are stored in accordance with the Privacy and Personal Information Protection Act, 1998 (NSW).