



# Sexual Harassment and Sexual Assault Policy and Procedure

<b>Policy Category</b>	Administration
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<b>Approving authority</b>	Board of Directors
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<b>Related Documents</b>	Student Code of Conduct Staff Code of Conduct Discrimination, Bullying and Harassment Policy Discrimination, Bullying and Harassment Procedure Student Support Framework Student Complaints and Appeals Policy Student Complaints and Appeals Procedure Critical Incident Plan

## 1. Purpose

The purpose of this Policy is to ensure that the Australian Institute of Higher Education Pty Ltd ('the Institute') implements and maintains appropriate support frameworks to:

1. Offer appropriate education to staff and students on sexual harassment and sexual assault
2. Establish prevention initiatives against sexual harassment and sexual assault
3. Ensure students and staff are empowered to take appropriate action against sexual harassment and sexual assault

## 2. Principles

The principles guiding this policy are driven by the Australian Human Rights Commission's recommendations (2017, pp.168-186) and include:

1. "Leadership and governance: The need for a strong and visible commitment to action from Institute leaders with the aim of developing an open and welcoming learning experiences for staff and students, accompanied by clear and transparent implementation of these recommendations.
2. Changing attitudes and behaviours: Development of measures aimed at preventing sexual assault and sexual harassment.
3. Institute responses to sexual assault and sexual harassment: Implementation of effective processes for responding to sexual assault and sexual harassment. These processes assure timely and accurate advice to staff and students regarding support services."

4. Monitoring and evaluation: Ensuring that steps taken to prevent and respond to sexual assault and sexual harassment are evidence-based and that improvements to prevention and response mechanisms are made over time.

### 3. Context

The Policy and associated Procedure is designed with consideration of the recommendations made by the:

- Australian Human Rights Commission Report in 2017 titled National Report of Sexual Assault and Sexual Harassment at Universities.
- TEQSA Report in 2019 titled Report to Minister for Education: Higher education sector response to the issue of sexual assault and sexual harassment.
- TEQSA Guidance Note: Well-being and Safety v.1.2 2018

The Institute has the primary duty and responsibility to minimise and/or eliminate, so far as is reasonably practicable, the risks to health and safety of all its members. This Policy will assist the Institute to comply with its legal responsibilities through the development and implementation of strategies for staff and students to educate them with the aim of prevention, and empowerment against sexual harassment and sexual assault.

### 4. Scope

This Policy applies to all workplace participants and affiliates of the Institute and all students. It extends to all Institute-related places including academic and non-academic spaces and off-site functions (e.g. work lunches, conferences, Christmas parties, client functions, external meetings, class-rooms, collaboration room, library spaces etc.).

### 5. Definitions

See the *AIH Glossary of Terms* for definitions.

**Sexual Assault** – occurs when physical sexual activity is engaged in without the consent of the other person or when the other person is unable to consent to the activity. Sexual assault is a crime under Australian Law Sexual assault can be committed against people regardless of their gender, age, sexual orientation, ability, and background. Sexual Assault is sometimes referred to as rape, sexual abuse or sexual violence.

For more details on sexual assault definitions and scope, see the website: NSW Justice, 2016, *What is Sexual Assault*, viewed 13 December 2019, [https://www.victimsservices.justice.nsw.gov.au/sexualassault/Pages/sexual\\_assault\\_victims.aspx](https://www.victimsservices.justice.nsw.gov.au/sexualassault/Pages/sexual_assault_victims.aspx)).

**Sexual Harassment** – Sexual harassment is any unwelcome behaviour of a sexual nature that makes a person feel offended, humiliated or intimidated. It is not sexual interaction, flirtation or friendship which is mutual or consensual. Sexual harassment might include physical and non-physical behaviors, such as:

- telling insulting jokes about particular racial groups, sexual preferences;
- sending explicit or sexually suggestive materials such as video or text;
- displaying offensive or pornographic posters or screen savers;
- making derogatory comments or taunts about someone's race or religion;
- inappropriate touching such as patting, stroking or brushing up against the body;
- repeated unwanted requests for sex and/ or dates;
- asking intrusive questions about someone's personal life, including their sex life.

For more details on sexual harassment definitions and scope, see the website: Human Rights Commission, 2019, *Sexual Harassment*, viewed 13 December 2019, <https://www.humanrights.gov.au/quick-guide/12096>.

**Consent** - Consent is when a person freely and voluntarily agrees to sexual activity. Sexual assault occurs when someone is unable to and/or does not give consent. Consent is not always verbal, but must be given before people engage in any sexual activity. The legal age of consent in NSW is 16 years old, regardless of gender.

The law says that a person may be unable to give consent when:

- Asleep or unconscious
- Significantly intoxicated or affected by drugs
- Unable to understand consent due to their age or intellectual capacity
- Intimidated, coerced or threatened
- Unlawfully detained or held against their will
- There is abuse of power or a position of trust
- The law requires the alleged perpetrator to demonstrate what steps they took to ensure consent was given.

## 6. Policy Details

### 6.1 Leadership and governance

The Principal takes responsibility for the implementation of this policy and evaluation of initiatives. The Well-being task force is the advisory group that guides initiatives through the organisation. The Well-being task force follows a whole of organisation approach with the following membership:

- Principal, Chair
- Academic Dean
- Head, Academic Support and Students Services
- Academic Success Manager
- Academic representative
- Student Representative

The actions, incident register, and recommendations are reported to the Board of Directors. External advice is sought from governing board members and external independent bodies.

### 6.2 Changing attitudes and behaviours

The Institute seeks to educate staff and students with evidenced based training and advice with the aim of preventing sexual harassment and sexual assault by informing students about consent and how to access support.

The following education initiatives are used:

- Mandatory completion of the Consent Matters program for new staff and student
- Key contacts are displayed around campus
- Policy and procedures are communicated to students

### 6.3 Institute Responses

The Institute seeks to empower staff and students to identify and seek help if required by ensuring Accurate, Timely and Accessible support services:

The Institute commits the following:

- Communicating accurate information by investing staff development, and offering sexual assault and sexual harassment education delivered by an organisation with specialist expertise in this area.
- Students are referred to external services when necessary, including:

- Sexual Assault Counselling Australia
  - NSW Rape Crisis
  - 1800 Respect
  - Lifeline
  - Beyond Blue
  - Suicide call back service
  - NSW Police
- Timely and accessible incident management.
    - a well-being officer is appointed.
    - the well-being officer's contact details are widely disseminated to students and staff.
    - information about internal and external services to staff and students, including: counselling and medical services, local sexual assault services, police, hospitals are accessible to students through the website, the student support framework, policies and procedures.
    - Students are educated on this policy at orientation and staff are provided a copy of this policy as part of their induction.
    - information about internal and external reporting procedures and support services is displayed clearly on the website under the Sexual Assault and Sexual harassment support page, accessible from the Student Well-Being page.

#### 6.4 Monitoring and Evaluation

The Principal commits to evaluating and reporting on the effectiveness of education initiatives and support services annually and report to the Board of Directors. This evaluation will assess:

- nature and number of incidents ensuring anonymity with de-identified reports. Trends will be identified and raised along with recommendations for improvement to the Board of Directors;
- effectiveness of educational programs including completion rates and behaviour change in staff and students;
- professional development of key contact staff;
- uptake of support service referrals;
- efficiency of the complaint/Incident escalation process: compliance, timely and effectiveness, and privacy management.

## 6. Procedure details

### 6.1 Responsibilities

- **The Principal:** The Principal has ultimate responsibility to ensure effective management of sexual assault and sexual harassment incidents. The Principal creates and monitors the procedure is known and accessible to students and staff.
- **The Head, Academic Support and Student Services:** The Head, Academic Support and Student Services is responsible for training student services staff to handle incidents appropriately including managing personal data, escalation points and key contact personal.
- **The Well-being Officer:** The Institute's appointed well-being officer is the key contact person for sexual assault and sexual harassment issues.

### 6.2 Process

The Flowchart in annexure 1 dealing with incidents of sexual assault or sexual harassment

## 7. Legislation

The relevant legislation includes:

- All Federal and State anti-discrimination legislation Age Discrimination Act 2004 (Cwth) Anti-Discrimination Act, 1977 (NSW)
- Australian Human Rights Commission Act 1986 (Cwth)
- Community Relations Commission and Principles of Multiculturalism Act 2000 (NSW)
- Defamation Act 2005 (NSW)
- Disability Discrimination Act 1992 (Cwth)
- Equal Opportunity for Women in the Workplace Act 1999 Fair Work Act 2009 (Cwth)
- Human Rights and Equal Opportunity Commission Act 1986 Privacy Act 1998 (Cwth)
- Racial Discrimination Act 1975 (Cwth)
- Sex Discrimination Act 1984 (Cwth)
- Workplace Relations Act 1996

This Policy and Procedure is also informed by Higher Education Standards Framework standard 2.3 (Well-being and Safety), which states:

- “1. All students are advised of the actions they can take, the staff they may contact and the support services that are accessible if their personal circumstances are having an adverse effect on their education.
2. Timely, accurate advice on access to personal support services is available, including for access to emergency services, health services, counselling, legal advice, advocacy, and accommodation and welfare services.
3. The nature and extent of support services that are available for students are informed by the needs of student cohorts, including mental health, disability and wellbeing needs.
4. A safe environment is promoted and fostered, including by advising students and staff on actions they can take to enhance safety and security on campus and online.
5. There is a critical-incident policy together with readily accessible procedures that cover the immediate actions to be taken in the event of a critical incident and any follow up required.”

## 8. Version Control

This Policy has been endorsed by the Australian Institute of Higher Education Board of Directors as at December 2019 and is reviewed every 3 years. The Policy is published and available on the Australian Institute of Higher Education website <http://www.aih.nsw.edu.au/> under 'Policies and Procedures'.

<b>Change and Version Control</b>				
<b>Version</b>	<b>Authored by</b>	<b>Brief Description of the changes</b>	<b>Date Approved:</b>	<b>Effective Date:</b>
2019.1	Principal	Created policy.	16 December 2019	17 December 2019



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**Annexure 1 Procedure for dealing with incidents of sexual assault or sexual harassment**

