



Sexual Assault and Sexual Harassment Prevention Policy and Procedure

Purpose

1. This Policy outlines the Australian International Institute of Higher Education's ('the Institute') framework for the prevention of sexual misconduct, the response to reported incidents and the mitigation of the negative consequences of sexual misconduct when it occurs.

Scope

2. This Policy applies to:
 - a) all students, prospective and current;
 - b) all visitors
 - c) all staff of the Institute whether full-time, part-time, casual or contract;
 - d) members of the Institute's Governing Bodies;
 - e) individuals engaged in providing services to the Institute or receiving services from the Institute, such as students, contractors or consultants;
 - f) all behaviours defined as sexual misconduct in this Policy, both on and off campus.

Definitions

3. For the purposes of this Policy:
 - a) **Complainant** means a person who is taking action in relation to a complaint of sexual misconduct under this Policy;
 - b) **Consent** means to agree freely. A person cannot give free agreement where they are:
 - i. bullied, threatened, manipulated or tricked;
 - ii. asleep, unconscious, or so affected by drugs or alcohol as to be unable to form a rational opinion;
 - iii. overborne by the nature or position of another; or
 - iv. if they are silent (that is do not say or do anything to communicate consent).

Consent can be revoked at any time. This means that even though a person may have initially consented to sex, they can change their mind during sex.¹

Consent cannot be given by any person under the age of 16 years.

- c) **Perpetrator** is a person against whom a positive finding of sexual misconduct has been made;

¹ Definition taken from University of Tasmania, [University Behaviour Policy](#), accessed 27/0720.



- d) **Respondent(s)** means a person or person against whom a complaint of sexual misconduct has been lodged;
- e) **Sexual assault** means any unwanted and forced sexual act or behaviour without consent, including groping, inappropriate touching of a sexual nature;
- f) **Sexual harassment** means unwelcome sexual advances, 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. Examples of sexually harassing behaviour include: unwelcome touching; staring or leering; suggestive comments or jokes; sexually explicit pictures 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; and sexually explicit emails or SMS text messages;
- g) **Sexual misconduct** is used as a generic term encompassing sexual assault and sexual harassment.

Policy

Principles

- 4. The Institute aims to develop and maintain a culture of respect and safety within the organisation, and puts in place processes to prevent, prepare for, respond, and recover from sexual misconduct.
- 5. The Institute adopts a zero-tolerance approach to sexual harassment and sexual assault.
- 6. The Institute encourages the reporting of incidents, will support complainants, and will appropriately sanction perpetrators. This approach is consistent with the *Staff Code of Conduct*, the *Student Code of Conduct* and the law.
- 7. Where sexual misconduct takes place outside of the scope of the activities of the Institute, support will also be provided to victims.
- 8. In its approach to the prevention and management of sexual misconduct the Institute will:
 - a) seek to prevent the occurrence of sexual misconduct across all areas of the Institute's operations, on campus and online;
 - b) ensure that management is aware of its responsibilities for establishing controls and procedures for the prevention and detection of, response to, and recovery from instances of sexual misconduct;
 - c) ensure staff members are aware of the Institute's expectation to report promptly and respond effectively to cases of sexual misconduct;
 - d) treat all reports with confidentiality and care;
 - e) provide assurances to staff, students, and the wider community that any suspected case of sexual misconduct will be fully investigated, and sanctions imposed, up to termination of enrolment or employment;
 - f) provide integrated support to victims of sexual misconduct to enable recovery and resumption of studies or employment.



Australian International
Institute *of*
Higher Education

TEQSA Registered in the “Institute of Higher Education” category



Strategies

Prevention

9. **Culture:** The Institute promotes a culture of mutual respect and safety through a process of awareness, training, and monitoring.
10. **Leadership:** Senior staff will demonstrate a high level of commitment to the prevention of sexual misconduct at the Institute.
11. **Staff awareness:** All staff members will have a general awareness of issues relating to sexual misconduct in the higher education sector and understand how such conduct should be managed if it is reported, witnessed or suspected.
12. **Student awareness:** Students are made aware of expected behaviours and receive information and guidance on on-campus and online safety. Student orientation will include a module on sexual assault and sexual harassment and regular educational campaigns on sexual misconduct are conducted, including on sexual harassment on social media and the link of the use of drugs and alcohol to sexual misconduct.
13. **Risk assessment:** The Institute will conduct risk assessments for the identification and assessment of precursors, early warning signs, and 'red flags' for early intervention. Risk assessments will be conducted regularly, in particular after changes in staffing or to the campus.
14. **Facilities:** As far as is reasonably practicable, campus facilities and onsite security are designed to prevent or minimise the risk of sexual misconduct.

Preparedness

15. **Training:** Staff members will be trained to receive reports of sexual misconduct, including on privacy and confidentiality requirements, and to initiate an adequate response from the Institute. Staff members responsible for investigating reports of sexual misconduct will be, and be seen as, independent and will receive institutional support to conduct an effective, fair and prompt investigation.
16. **Information:** Information on immediate assistance in the case of sexual assault or sexual harassment will be made available in ways that students and staff can access it as and when needed, including key Institute contacts and relevant external services, such as support helplines.
17. **External services:** The Institute will develop and maintain a network of services to respond to sexual misconduct, including counselling services, local police, hospitals, sexual assault services, and legal centres.

Response

18. **Support:** The Institute will provide integrated support to the victims of sexual misconduct, including professional support (e.g. personal counselling), reasonable adjustments, and other measures to enable victim recovery and return to study or employment.
19. **Investigation:** The Institute will investigate all reports of sexual misconduct and will provide a response to the person who made the report.
20. **Sanction:** Perpetrators will be sanctioned, up to termination of enrolment or employment. If the sanction does not involve exclusion or termination, it will always include mandatory



participation in educational programs on sexual misconduct.

21. **Referral to Police:** The Institute will refer cases to the Police only with the consent of the victim or where legally required to do so.

Recovery

22. **Ongoing support:** Victims of, and persons who reported, sexual misconduct will receive ongoing support from the Institute, including academic support, reasonable adjustments, employment support and other measures to enable participation and progression. Staff members and supervisors will take into consideration the psychological impact of sexual misconduct and its negative consequences for staff and students. With the approval of the Academic Dean, or Chief Executive Officer (CEO) as appropriate, procedures may be adjusted to maintain confidentiality, e.g. with reasonable adjustments for students which normally require disclosure to staff members.

Procedure

Sexual assault

23. In an emergency or in circumstances of immediate danger on campus victims or observers should call:
- Police or emergency services (24 hours): 000; and then
 - Campus Security (XX hours): **Number**
24. Sexual assault is a very serious matter. Where there is an incident of sexual assault, the Institute will:
- take immediate steps to provide appropriate support to the victim, including the engagement of external sexual assault services where the victim provides consent;
 - encourage but not require victims to make a report to the Police;
 - ensure that the CEO is informed and implement the processes set out in the *Critical Incident Policy*.
25. Where a victim chooses to make a report to the Police while the Institute is investigating the incident of sexual misconduct, the Institute will suspend its investigation. Any action taken by the Institute to support victims or make adjustments to its own environment or procedures as a result of any serious incidents will occur independently of any Police criminal investigation.

Seeking assistance and reporting - sexual misconduct

Informal measures

26. If a person feels that they have been the victim of sexual misconduct they have the option of approaching the person who carried out the behaviour, if they feel comfortable to do so, and tell them to stop the offending behaviour immediately.
27. If the person is either not satisfied with the outcome of their discussions or feels uncomfortable about approaching the person on their own, they have the following option:
- students may make a disclosure to a Student Services Manager and request assistance and intervention on their behalf;



- b) staff may make a disclosure to their supervisor, the Academic Dean, or the CEO depending on the identity of the alleged perpetrator and their relationship to the victim.
28. Making a disclosure such as this can enable a victim to access support without the requirement to proceed with a formal complaint or grievance or report to Police or any external agencies, although they may choose to do this at any time.

Formal grievances – staff

29. Where a matter is not resolved through initial actions, or a staff member chooses not to make a direct approach to the person, the staff member may lodge a grievance and have the matter investigated under the Grievance Management provisions in the *Human Resources Management Policy and Procedure*.

Student matters

Making a formal complaint

30. If the matter is not resolved through initial actions or the student chooses not to make a direct approach to the person, the student has the option of lodging a complaint using the Incident Reporting Form. Reports may be made by the student concerned or by another person on their behalf, subject to their consent.
31. The student may choose to submit this report through a number of avenues:
- complete the report with the assistance of the Student Services Manager, who will then submit the report to the Academic Dean;
 - submit the report directly to the Academic Dean;
 - if the student believes their complaint or concern directly involves the Academic Dean, lodge their complaint directly with the CEO.
32. Reports are kept strictly confidential and information on the incident is provided to staff only where required to respond effectively to the report.
33. The Institute will accept anonymous reports or reports for incidents which happened in the past, however, the Institute may be limited in its response due to lack of evidence or information.

Investigations

34. Complaints of sexual misconduct will be investigated promptly, fairly and confidentially.
35. Most complaints will be investigated by the Academic Dean. In circumstances where a report is submitted directly to the CEO, or the Academic Dean determines that escalation is required, the CEO may appoint an independent third party, with appropriate expertise, to conduct the investigation.
36. The investigator/Academic Dean will review the initial report and will interview the complainant and the respondent(s) and any other person who may have been involved or witnessed the incident(s).
37. All parties to a complaint of sexual misconduct have the right to:
- natural justice and fair treatment at all stages of the process;
 - be accompanied by a support person when being interviewed as part of an investigation.
38. The investigation will normally be concluded within ten (10) working days of receipt of the initial



report.

Findings and outcomes

39. The investigator/Academic Dean will prepare a report with their findings and recommendations for action. The findings may be either:
 - a) sexual misconduct has been established;
 - b) sexual misconduct has not been established.
40. Where sexual misconduct has been established the recommendations will include appropriate responses and any Institute-level actions that may need to occur, such as more training or awareness programs.
41. The CEO will review, and if appropriate, approve the recommendations and prepare or authorise a letter of outcome for both the complainant and respondent(s). The letter must be sent within ten (10) working days of the conclusion of the investigation and will advise:
 - a) the findings and outcome of the investigation;
 - b) the responses and/or penalties to be applied where appropriate;
 - c) the right of either party to the complaint to appeal the decision.
42. Depending on the identity of the perpetrator, the response will be implemented in accordance with either the *Student Misconduct Policy and Procedure* or the *Human Resources Management Policy and Procedure* and may include the mandatory completion of a sexual misconduct awareness program, through to suspension or exclusion from enrolment or termination of employment.
43. The CEO is responsible for ensuring that any recommendations for Institute-level changes are implemented.

Records

44. An individual, confidential file is opened for each incident and all positive findings of sexual misconduct are recorded in a Sexual Misconduct Register. Cases of sexual assault will also appear in records kept under the provisions of the *Critical Incident and Emergency Management Plan*.
45. A record of actions taken, students and staff involved, and any available outcomes/supporting documents will be included in the file.
46. It is the responsibility of the CEO to ensure that complete records are filed for reports of sexual misconduct.

Monitoring

47. The Institute collects data on reports of sexual misconduct and any follow-up actions. Student and staff feedback on the Institute's processes for sexual misconduct prevention, response and recovery is sought on an annual basis.
48. The Institute uses data collected from the Sexual Misconduct Register to monitor trends and emerging issues.
49. The Institute will improve its strategies for sexual misconduct prevention, response and recovery based on the collected data.
50. The CEO will submit an annual report to the Governing Council on the adequacy and



effectiveness of Institute strategies.

51. The Institute is required to, and will, report certain material changes to TEQSA, including recurring incidents of sexual assault or sexual harassment, which would constitute a material breach in the Institute's controls.

Appeals

52. If a party to a complaint of sexual harassment is not satisfied with the way the complaint has been handled, they may lodge an appeal as follows:
- students may appeal under the provisions of the *Student Appeals Policy and Procedure*;
 - staff may appeal under the provisions in the *Human Resource Management Policy and Procedure*.

Responsibilities

53. All students are responsible for:
- ensuring that their behaviour and conduct always reflects the standards of the Institute's *Student Code of Conduct*;
 - reporting observed or alleged sexual misconduct promptly.
54. All staff are responsible for:
- ensuring that their behaviour and conduct always reflects the standards of the Institute's *Staff Code of Conduct*;
 - reporting observed or alleged sexual misconduct promptly;
 - protecting the confidentiality of information relating to reports of sexual misconduct.
55. The Student Services Manager is responsible for:
- providing all necessary support to students who make any disclosures in relation to sexual misconduct, including referring students to specialist external services where necessary;
 - supporting students to lodge a formal complaint where they wish to do so.
56. The Academic Dean is responsible for:
- implementing the strategies involving students under this Policy;
 - escalating individual cases to the CEO where required.
57. The CEO is responsible for:
- managing any escalated cases of sexual misconduct affecting students where required, including the appointment of a third-party investigator;
 - approval of findings, recommendations and penalties arising from investigations into sexual misconduct affecting students;
 - escalating any substantial or systemic issues relating to sexual misconduct to the Governing Council as they emerge;
 - submitting an annual report to the Governing Council on the adequacy and effectiveness of Institute strategies;
 - reports of material breaches to TEQSA where required.



58. The Governing Council is responsible for:

- a) the overall governance of this Policy;
- b) approving any strategies and resources to improve the Institute's ability to provide a safe environment for all.



Associated information

Approving body	Governing Council
Date approved	23 October 2020
Date of effect	Commencement of operation
Next scheduled review	Two years from when policy commence
Policy owner	Chief Executive Officer
Policy contact	Chief Executive Officer
Related AIIHE Documents	<i>Critical Incident and Emergency Management Plan Health and Safety Policy and Procedure Human Resources Management Policy and Procedure Quality Assurance Framework Risk Management Plan Staff Code of Conduct Student Code of Conduct Student Misconduct Policy and Procedure Student Support Framework Student Wellbeing Policy and Procedure</i>
Higher Education Standards Framework (Threshold Standards) 2015 (Cth)	Standard 2.3, ss 1-5 Standard 6.1, ss 4 Standard 6.2, ss 1 Standard 7.2, ss 1-2
Other related external instruments/documents	Related Legislation <ul style="list-style-type: none">• <i>Tertiary Education Quality and Standards Agency Act 2011 (Cth)</i>• <i>Education Services for Overseas Students Act 2000 (Cth)</i>• <i>National Code of Practice for Providers of Education and Training to Overseas Students 2018 (Cth)</i>• <i>Sex Discrimination Act 1984 (Cth)</i>• <i>Work Health and Safety Act 2011 (Qld)</i>• <i>Privacy Act 1988 (Cth)</i>• <i>Criminal Code Act 1899 (Qld)</i> Good Practice Documents <ul style="list-style-type: none">• <i>TEQSA Guidance Note: Wellbeing and Safety, Version 1.2</i>• <i>TEQSA Good Practice Note: Preventing and responding to sexual assault and sexual harassment in the Australian higher education sector, July 2020</i>



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Document history

Version	Author	Changes	Approval Date
1.0	Not applicable	Original version	23 October 2020

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