

SEXUAL ASSAULT AND SEXUAL HARASSMENT POLICY AND PROCEDURE

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| Approving Authority | Board of Governance 10 th December 2020 |
| Responsible Officer | Head of Counselling |
| Version | 1.2 Reformatting, updated terms and revision of some sentences. Principal approved 5 th October 2020 |
| Next Scheduled Review | Oct 2023 |
| Related Legislation and Regulations | Child protection Sex Discrimination Act State Crimes acts Criminal Law Consolidation Act 1935 Higher Education Standards Framework 2021, standard 2.3 |
| Associated Documents | Student Support Services Privacy Policy and Procedure Grievance Policy and Procedure Exclusion Policy and Procedure Code of Conduct Policy SASH Modules Wellbeing and Safety Modules Diversity and Equity Policy and Procedure |

1 SCOPE

This document defines what constitutes sexual assault and/or harassment and provides a procedural framework for the prevention of and response should such incidents be reported. It applies to all members of the College community whilst on campus or participating in a College activity elsewhere, in class or online.

This policy applies across all sectors within the College. Should an incident occur outside ACCS and beyond the parameters of this policy, regardless of where it is reported, ACCS as far as able will make available support services.

2 PURPOSE

Australian College of Christian Studies (ACCS) is committed to the provision, as far as we are able, of a safe working and learning environment for all members of the College community. This is evidenced by a caring and just environment, responsive and supportive to those in need and where all persons are treated with respect and dignity. ACCS staff and faculty are proactive to ensure the wellbeing and support of the rights of all persons who learn and work both in class and online.

Sexual assault and sexual harassment (SASH) are concerns for our society. This Policy's aim is the prevention of any behaviour or communication that places our community members safety or wellbeing at risk. It is recognised as an entitlement for all to work and study in an environment free from threat or actions which negatively impact on personal safety, wellbeing or dignity.

In particular it is to be understood by all in the ACCS community that sexual assault and sexual harassment are not tolerated and that such behaviours are regarded as significant misconduct and therefore, will invoke commensurate procedures and if substantiated invoke substantial consequences.

3 DEFINITIONS

This policy relies upon the following definitions to direct responses.

Sexual Assault: Sexual assault occurs when a person is forced, coerced or tricked into sexual acts against their will or without their consent or if consent is withdrawn, or if a child or young person under 18 is exposed to sexual activities. Some forms of sexual assault, such as rape, assault of a sexual nature, acts of gross indecency and sexual intercourse without consent, indecent exposure, stalking or unlawful observations and recordings in breach of privacy or obscene communications are also criminal offences and may be reported to the Police as guided by law.

Sexual Harassment: Sexual harassment means any unwanted, unwelcome or uninvited behaviour or conduct of a sexual nature, which makes a person feel offended, humiliated and/or intimidated. Sexual harassment includes behaviour that makes the personal environment uncomfortable or threatening in a sexually hostile way. Sexual harassment may include personal interaction and interactions virtual environments or online through such as the sharing of sexually explicit emails, messaging, other forms of social media, sharing of sexually explicit material, jokes or requests. If sexual harassment includes behaviour that causes humiliation, pain, fear or intimidation, it can also amount to sexual assault.

Consent (in this context): Consent, as defined in section 46 of the Criminal Law Consolidation Act 1935 (SA) ("CLCA") means freely and voluntarily agreeing to sexual activity. Means people voluntarily agree to sexual activity and accept responsibility for their own and for others safety. Consent can be withdrawn at any time. Consent cannot be given if a person is under 16 years of age, not able to understand or make decisions for them self.

A Disclosure: Involves the sharing of information about an incident(s) of sexual assault or sexual harassment with another person. Disclosures can be made to anyone and are usually made to a person who is known and trusted. A person who discloses may not want to make a formal report and may instead be looking for information about resources and support. (UA Guidelines 2018, p.12).

Formal Reporting: Refers to providing a formal account or statement about sexual assault or sexual harassment to a person or institution that has the authority to take action. Reporting can be an outcome of disclosure, but it is not the only possible outcome. (UA Guidelines 2018, p.12).

First Responder: An ACCS staff member who is sought to provide support to someone subject to sexual assault or sexual harassment. A first responder then may support the reporter to the appropriate person for further response if required.

Complainant: Refers to a person who has made a complaint of an incident of assault or harassment.

Alleged offender: Refers to a person who has been identified in a report or allegation as having committed an offense.

Witness: Refers to a person who has observed or been informed of an occurrence and have reported it.

Staff member: Means all College employees casual, full time and adjunct.

Student: Means a person enrolled in the College.

Code of Conduct: Is the documented expectations as outlined in the Code of Conduct policy.

College activity: Is that which involves staff or students in general operations or representation.

Counsellor: Is a trained counsellor who works with students facing personal challenges to empathise, encourage and guide them.

4 POLICY/PROCEDURE STATEMENT

In keeping with all support policies ACCS aims to foster a spirit of harmony, Christian love and goodwill within the College community and broader community involvement. Where appropriate the inclusion of the principles of this policy will be incorporated into various College communication opportunities such as whilst not limited to cyclic reviews, staff meeting consultations, and lesson content in order to raise awareness. The College intent is to remain diligent for the prevention of and SASH related possibility or occurrences and the safety and well-being of all members of the immediate College and broader community and future workplaces.

ACCS acknowledges that all sexual assault and sexual harassment are unlawful and unacceptable in our community and or society and therefore extend this policy to any occurrence on site, online, physical, verbal or written.

Students are to be informed of the accessibility and availability of the faculty and administration staff, and in particular the Student Counsellor, for reporting, consultation and assistance. The faculty and staff will make every attempt to be immediately responsive, fair, honest and unbiased in their interaction with others and in particular, students.

Where there are issues or grievances, every effort is to be made to address these as expeditiously as possible, with due regard to natural justice and in a spirit of understanding, compassion and integrity, maintaining the standards and Christian ethos of the College.

The policy has been formulated in consultation with the students and staff within the Student Wellbeing and Safety Committee and applies to all College facilities, communications and events.

It is the responsibility of all members of the College community to maintain a working and learning environment free from sexual assault and sexual harassment. This applies to all who work, study, visit or support in any activity and function within or for the College both on site and online, through any means of contact or communication medium.

Staff and faculty onsite are aware of the need for monitoring safe work spaces and practices.

Both onsite and adjunct faculty are aware of the potential for SASH related misconduct online and the need to maintain diligence for safe guarding students, colleagues and shared sites.

All complaints are to be responded to with fairness, sensitivity to those involved, confidentiality as per the policy and in a timely manner.

The ACCS Policy is framed by the following:

- The maintenance of an environment free from sexual assault or sexual harassment
- All members of the College community are to be treated with respect
- Training provided to staff and faculty to raise awareness of rights and responsibilities, procedures, practices and consequences
- The addition of such training to the induction processes for new staff
- Available, effective complaint procedures centered on fairness and justice to students
- Response to all complaints and reports with sensitivity, promptness, privacy and support
- Maintenance of a strong commitment to a high code of conduct
- New student orientation and mandatory participation in training modules

Orientation of New Students

Aspects relating to SASH practices and policy are outlined to students during the orientation presentation at the beginning of each trimester.

Completion of student modules regarding College expectations and procedures within the scope of this policy is mandatory for all new students. They are located on the Student Information Page on the Moodle portal.

Response Training

Staff completion of a training module regarding the College expectations and procedures for response and support for students is mandatory and is located on the Staff Information Page on the Moodle portal. First Responders do not offer medical or counselling advice. They are, however, trained to provide an appropriate and supportive first response to a disclosure of sexual misconduct.

Support Personnel

The following are means by which members of the College community may access immediate and ongoing support should they need to with regard to sexual assault or sexual harassment. It is also noted that ongoing counselling and academic support may be required should it be requested by a student who has been a victim of assault or harassment externally to the College.

Language Support

If required, students are provided English language assistance through the assistance of an English Language Tutor or Korean student support personnel.

Counselling

A counsellor and chaplain are available at the College should students require counselling support. Students are also advised to seek help through online support providers or through appointments with professionals outside the College.

Security

Appropriate security for College events and within the online environment

Special Academic Allowances

Where circumstances impact a student's ability to complete their studies, they may authorise the Dean of Students, or the counsellor to contact the Dean of Studies, who will provide advice or suggest alternative avenues of assistance.

Allowances made for students include but are not limited to, additional time for assessments and examinations and or alternative forms of assessment.

Reporting Procedure

Should any student or staff member consider their personal well-being or safety is compromised while on campus they are to immediately notify a staff member. Confidentiality will be safeguarded if the report is of a private or personal nature. Appropriate action will be taken by the College to ensure the immediate wellbeing and safety of the victim.

Online students who consider their personal wellbeing or safety is compromised by inappropriate online communication by a member of the College staff or another student are to report their concern immediately to the Dean of Students or the Principal. The College will respond immediately to the report to ensure the preservation of privacy and online security for each ACCS student.

ACCS considers any form of sexual assault or sexual harassment, whether physical or verbal, as totally unacceptable. Any student who feels they are a victim of such harassment or assault by a fellow student or

member of the College community, has the right to immediately notify the Principal or another senior member of the College staff. Should the student wish, they may, instead, report the incident to the College counsellor. The student's confidentiality and privacy will be protected at all times.

Should an allegation include behaviours that may be considered as a criminal offence, the victim will be encouraged to report the incident directly to the police or to request the College contact assist them to do so.

Should the community need to be made aware of circumstances for ongoing safety, general information precluding the identification of individuals involved or specific detail may be communicated.

Should the College Principal, in conjunction with the College Counsellor, deem there is a potential further risk of harm to the person making the report or to others they may contact the Police.

Report Records

A confidential record of SASH incidences and procedures are maintained by the Dean of Students.

All information provided is to be regarded with confidentiality. All records are to remain so and not disclosed except to authorised persons with the College and externally. All records are to be secure and only accessible by the authorised persons.

Confidentiality and Privacy

As far as able the College commits to upholding confidentiality and privacy, recognising the rights of individuals involved in reporting.

Personal information will however be disclosed where:

- the disclosure is necessary to prevent a serious and imminent threat to the life or health of the individual concerned or another person; or
- the individual to whom the information relates has expressly consented to the College disclosing the information; or
- the College is lawfully authorised or required to disclose the information, for example because:
 - the information indicates evidence of a serious indictable offence;
 - of a subpoena or warrant issued to the College; or
 - a mandatory reporting requirement arises in regard to children and young persons

Reports of sexual misconduct which may constitute criminal conduct, such as sexual assault, will be promptly referred to the Police. When a Police investigation is commenced, ACCS will defer its own investigation process until it is advised that the Police investigation is complete or is not continuing. Any such deferral will not limit any urgent interim measures that may be necessary to preserve the safety and wellbeing of individuals.

Complaint Resolution

The College strongly encourages members of the College community to report personal or witnessed incidences of sexual harassment or assault. The College will, as far as is practicable, protect any person making a sexual harassment complaint against victimisation and reprisals.

All complaints of sexual harassment will be treated seriously, investigated promptly, impartially and confidentially. Sexual assault is a crime and should be reported to the Police. Referral of a case to the Police does not preclude the College from dealing with the matter through its internal disciplinary procedures.

Sexual harassment complaints can also be made to the relevant external organisation:

- Anti-Discrimination Commissioner – NT/QLD/NSW
- Equal Opportunity Commissioner – TAS/VIC/WA
- Human Rights Commissioner – ACT
- Australian Human Rights Commissioner
- Fair Work Australia Ombudsman

Possible Consequences

Should a reported allegation be proven to involve another member of the College community the College will counsel the offender through a process of suspension or where they are found responsible to exclusion from the College. Ongoing support external to the College will be offered.

Procedural Process follows

1. Preventative measures in place
2. Monitoring of onsite and online interaction
3. Incident report
4. First response
5. Provision of support and assistance or advice for further support
6. In college investigation for all reports
7. Response from investigation findings
8. Recording of critical incident

1800Respect

T: 1800 737 732

W: 1800respect.org.au/

ReachOut <https://au.reachout.com/articles/sexual-assault-support>

NSW Gov Communities & Justice

<https://www.victimsservices.justice.nsw.gov.au/sexualassault>

In a non-emergency you can contact the **NSW Police Force Customer Assistance Unit 13 14 44**

NSW Rape Crisis 1800 424 017

NSW Rape Crisis online counselling www.nswrapecrisis.com.au

Child Protection Helpline 13 21 11

Lifeline 13 11 14

Youthline (02) 9951 5522

Trained counselling professional or help lines

- [Lifeline](http://lifeline.org.au) on 13 11 14
- [Kids Helpline](http://kidsline.org.au) on 1800 551 800
- [MensLine Australia](http://mensline.org.au) on 1300 789 978
- [Suicide Call Back Service](http://suicidecallback.org.au) on 1300 659 467
- [Beyond Blue](http://beyondblue.org.au) on 1300 224 636
- [Headspace](http://headspace.org.au) on 1800 650 890
- [Mindspot](http://mindspot.org.au) on 1800 614 434
- [ReachOut](http://reachout.com.au) at au.reachout.com
- Mental Health Line on 1800 011 511

5 ACKNOWLEDGEMENTS

This policy acknowledges the following resources:

<https://www.teqsa.gov.au/sites/default/files/good-practice-note-preventing-responding-sexual-assault-sexual-harassment-v2-0-web.pdf?v=1600140035>

UNSW Sexual Misconduct Policy

CDU Sexual Harassment Prevention Policy

SASH Universities Australia Guidelines

Fair Work Australia Ombudsman



<https://www.humanrights.gov.au/our-work/chapter-3-what-sexual-harassment-effectively-preventing-and-responding-sexual-harassment>

<https://www.nsw.gov.au/strategies-and-resources/sexual-assault/consent>

Universities Australia, Guidelines for University responses to Sexual Assault and Sexual Harassment, viewed 3 June 2020, <https://www.universitiesaustralia.edu.au/wp-content/uploads/2018/10/UAGuidelines-5.pdf>