

Sexual Harassment and Assault Policy

Version number	1
Approved by	Corporate Governance Board
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Purpose

Sydney Institute of Higher Education (SI) acknowledges that the high prevalence of sexual harassment and assault in higher education settings in Australia needs to be proactively addressed in order to ensure the safety and wellbeing of staff and students.

Anyone affected by sexual harassment and assault is likely to experience a range of negative effects that have an impact on their studies and work. SI is thus committed to ensuring that those affected are properly supported and creating equivalent opportunities for them to succeed.

The *Sexual Harassment and Assault Policy* has been developed in response to the 2017 national report on sexual assault and sexual harassment at Australian universities (see “related documents” below). It responds to the key areas of focus and improvement identified by the report. In particular, it establishes SI’s no tolerance approach to sexual harassment and assault, and its commitment to support anyone who is a victim/survivor of sexual harassment and/or assault.

This policy defines sexual harassment and assault, establishes the principles on which SI operates, and the procedures through which SI aims to prevent incidents from occurring. Additionally, it details the procedures through which victim/survivors of sexual harassment and/or assault can make a report, what they can expect from SI, and potential disciplinary measures that may be applied. The policy also notes the circumstances in which SI is obliged to involve outside authorities, and how records will be kept that maintain the privacy of those involved.

Scope

This policy applies to all staff and students at SI, and in addition all visitors, contractors, representatives of SI, and anyone operating on the SI campus in some capacity.

Principles

Legislative compliance

This policy complies with the following national and state legislation:

- Australian Tertiary Education Quality and Standards Agency Act 2011 (Cth)
- Sex Discrimination Act 1984 (Cth)

- Work Health and Safety Act 2011 (Cth)
- Crimes Act 1900 (NSW)
- Anti-Discrimination Act 1977 (NSW)

Definition of consent

SI observes the definition of 'positive consent' to sexual activity, defined by the *Australian Institute of Family Studies* as:

"Positive consent means that:

- *there is a free agreement between all parties involved, with no coercion, force or intimidation of any kind; and*
- *an individual will actively display his/her willingness to participate and consent to sexual activity. Consequently:*
- *submitting to sexual activity, or not actively saying "no", is not enough to demonstrate consent; and*
- *the consent of the other party in a sexual encounter should never be assumed, and should be actively sought after and affirmed."*

<https://aifs.gov.au/sites/default/files/publication-documents/rs1.pdf>

Definition of sexual harassment

SI observes the Australian Human Rights Commission's definition of sexual harassment:

- *"Sexual harassment is any unwanted or unwelcome sexual behaviour, which makes a person feel offended, humiliated or intimidated.*
- *Sexual harassment is not interaction, flirtation or friendship which is mutual or consensual.*
- *Sexual harassment is a type of sex discrimination.*

The Sex Discrimination Act makes it unlawful for a person to sexually harass another person in a number of areas including employment, education, the provision of goods and services and accommodation.

Sexual harassment may include:

- *staring or leering*
- *unnecessary familiarity, such as deliberately brushing up against you or unwelcome touching*
- *suggestive comments or jokes*
- *insults or taunts of a sexual nature*
- *intrusive questions or statements about your private life*
- *displaying posters, magazines or screen savers of a sexual nature*
- *sending sexually explicit emails or text messages*
- *inappropriate advances on social networking sites*
- *accessing sexually explicit internet sites*
- *requests for sex or repeated unwanted requests to go out on dates*
- *behaviour that may also be considered to be an offence under criminal law, such as physical assault, indecent exposure, sexual assault, stalking or obscene communications."*

<https://www.humanrights.gov.au/our-work/sex-discrimination/guides/sexual-harassment#sh>

Definition of sexual assault

SI observes the definition of sexual assault in NSW law:

- “*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 is exposed to sexual activities.*
- *Sexual assault is a crime.* “
- http://www.victimsservices.justice.nsw.gov.au/sexualassault/Pages/sexual_assault_victims.aspx

SI's approach to sexual harassment and assault

The high prevalence of sexual harassment and assault in higher education sectors can be attributed to many different factors, as explored in the recent reports released by the Australian Human Rights Commission and other relevant bodies. One key factor is cultural attitudes about sex and gender roles, and another is a lack of strong leadership on the issues.

In response to this, SI is committed to educating staff and students on respectful relationships, sex and consent, as well as making clear to all staff and students SI's no-tolerance stance on harassment and assault. Through these measures SI will build a culture that actively discourages sexual harassment and assault.

SI takes a no tolerance approach to sexual harassment and assault by students and / or staff. Sexual harassment and assault goes against the *Student Code of Conduct*, which students and staff agree to abide by as a condition of their employment/enrolment. Misconduct procedures, including disciplinary action, apply if the Code of Conduct is breached.

SI views its role in the studies and work of students and staff as not only a source of education and employment, but also a safe space and a source of support in the face of hardship. Hence, SI sees its primary responsibility in this area as the support of victim/survivors of sexual harassment and assault.

Reports of sexual harassment and assault

SI must ensure that victims/survivors of sexual assault have full access to reporting procedures that are compassionate, timely, and fair, and designed to counter the negative affect of the incident on their studies and/or work.

SI encourages all victim/survivors of sexual harassment and/or assault to report incidents, including:

- where the victim/survivor wants to file a police report
- where the victim/survivor does not want to file a police report
- where the incident happened on campus
- where the incident happened off campus
- where the incident happened in a context affiliated with SI, for example at a SI event or involving a SI staff member or student

- where the incident has no connection to SI.

Students and staff members identified in reports as perpetrators of sexual harassment or assault will be treated in line with the principles of procedural fairness. If the matter is referred to the police, SI will fully cooperate with a police investigation and decision.

Provision of support

SI will adhere to the following principles when providing support to victims/survivors of sexual harassment and/or assault:

- There is no time limit on making a report. Incidents may be reported at any time after they occur.
- The response to a disclosure must be sensitive and appropriate.
- SI must give assistance in seeking medical attention, counselling, and legal advice and advocacy
- SI must inform the victim/survivor of their rights and the avenues of action that are available both within and external to provider
- The disclosure must remain confidential
- The victim/survivor must only be asked to disclose what happened once, not required to repeat it multiple times
- SI must protect the victim/survivor from reprisal that may occur as a result of their disclosure or report
- SI must never require the victim/survivor to confront the alleged perpetrator
- SI must keep the victim/survivor fully informed at all stages of the process
- SI must make arrangements to ensure that the victim/survivor are not required to be in the same spaces as each other for teaching and learning purposes.

SI must give the victim/survivor a free choice about involving the police, with the exception of certain situations detailed in 'reporting to external authorities' below.

Equitable access

SI recognises that, due to a range of external factors, staff and students belonging to underrepresented and/or disadvantaged groups may require additional support to ensure their equivalent access to sexual harassment and assault procedures. This may include the following:

- Aboriginal and Torres Strait Islander students
- Students who are part or full-time carers
- Students with disabilities
- Students experiencing mental or physical health concerns
- Mature-age students
- Students who are single parents
- International students
- Students for whom English is a second language

SI must ensure that appropriate measures are implemented to facilitate full access for all staff and students. All support services that SI provides or refers victim/survivors to must be fully accessible, with varying language and ability needs taken into consideration.

Procedures

A comfortable and safe environment for all students and staff

All signs and/or decorations at SI will use respectful language and imagery.

Codes of Conduct, policies and procedures will be gender neutral. The Code of Conduct in particular will require all staff and students to show respect for all.

For further information refer to the *Equity and Diversity Policy*.

SI will ensure the physical comfort and safety of students and staff through a range of measures, including:

- CCTV will be in use at the front entrance.
- All spaces will be well-lit at all hours.
- At SI social events where SI is responsible for catering, alcohol intake will be limited.

Ongoing education on sexual harassment and assault

Education initiatives will include:

- For each Orientation Week, SI will present a program designed to prevent sexual harassment and assault
- Educational materials will be available on the SI website and student and staff portals
- All new students will undertake an online learning module about consent and respectful relationships through the learning management system
- Staff members will receive training on induction and through ongoing professional development activities, specifically regarding:
 - How to respond to disclosures of sexual harassment and/or assault
 - Where to refer someone who discloses an incident of sexual harassment and/or assault.
- SI will implement campus-wide education initiatives such as the *Respect. Now. Always.* campaign.

All information will be made fully accessible to all, with varying language and ability needs taken into consideration.

Building external relationships

SI will build relationships with external groups involved in the prevention of sexual harassment and assault.

In doing so, SI will ensure that it has an open line of communication and cooperation with parties who may be able to contribute to SI's best practice approach to preserving the safety and wellbeing of students and staff.

SI will build relationships with:

- Local police

- Local providers of medical attention, legal advice, and financial, housing, and counseling services.
- External policy and procedure auditing groups and/or consultants with expertise in sexual harassment and assault
- Benchmarking partners for sexual harassment and assault processes.

Counsellor

Both staff and students will have access to the SI Student Counselling and Wellbeing Officer.

The SI Student Counselling and Wellbeing Officer will be trained in trauma-informed, best practice approaches to handling disclosures of sexual harassment and assault. This will be identified as part of the selection criteria for the position. The counsellor will receive further training and professional development in the area.

The Student Counsellor and Welfare Office will be open to discuss any topic, including discussing uncertainty around whether an incident is sexual harassment and/assault, and what options are available to a victim/survivor.

The SI Student Counsellor and Welfare Office will be available during business hours.

Appointments with the Student Counsellor and Welfare Office may be made through the Student Support Officer.

Support prior to disclosing an incident

Students and staff are able to access support without disclosing an incident of sexual harassment and/or assault that has occurred.

All students and staff have access to information at all times via the website and student and staff portals. This includes the *Sexual Harassment and Assault Policy* and various educational resources on the topic.

All students, as per the *Student Welfare Policy*, have access to a range of support services including the SI Student Counselling and Wellbeing Officer (as above), medical, financial, accommodation, and legal advice and advocacy.

SI also has connections to external services and groups through which students and staff may seek support.

Victims/survivors can access various confidential phone support lines:

- National University Support Line 1800 572 224
- 1800 RESPECT (National Support Line) 1800 737 732
- Canberra Rape Crisis Centre (ACT) 6247 2525
- NSW Rape Crisis (NSW) 1800 424 017
- Sexual Assault Crisis Line (VIC) 1800 806 292
- Sexual Assault Resource Centre (WA) 1800 199 888

Disclosing an incident

SI strongly encourages any staff member or student who wishes to disclose an incident of sexual harassment and/or assault to make an appointment with the Student Counsellor and Welfare Office.

SI acknowledges that disclosures are likely to be made to staff members other than the Student Counsellor and Welfare Office. Hence, all staff members at SI will be trained in responding to disclosures.

They will be trained to refer the victim/survivor to the counsellor and provide support to ensure that they make and attend an appointment with the counsellor.

Support after disclosing an incident

The Student Counsellor and Welfare Office will:

- Refer the victim/survivor to the appropriate medical, financial, accommodation, and legal advice and advocacy services. They will provide ongoing support to ensure that the victim/survivor accesses the necessary services.
- Record the details of the disclosure. This record will be confidential, and will be used in the victim/survivor decides to the pursue the matter in order to ensure that the victim/survivor is not asked to do multiple retellings of the incident of sexual harassment and/or assault.
- Ensure that the victim/survivor is completely informed and aware of SI policies and procedures, their rights as a staff member or student at SI, and all the options that are available to them.
- Discuss with the victim/survivor whether they want to submit an official report to SI and provide support in submitting the report as necessary.
- In the event that the victim/survivor is a student, assist the student in submitting a written request for academic support as outlined below.

SI will ensure that students affected by sexual harassment and/or assault are supported academically, through measures including:

- Granting a leave of absence
- Granting special consideration
- Granting extensions on assignments.

To be granted academic support, students must submit a request including a written endorsement by a qualified counsellor (this may be the SI Student Counsellor and Welfare Office).

Investigation and disciplinary procedure

The identify of the person who made the report will at all times be kept confidential. They will never be asked to attend a meeting with the alleged perpetrator.

When a report of sexual harassment and/or assault is received, a member of senior staff who presents no conflict of interest in the case will be assigned to the role of 'investigating officer'. If no staff members are deemed appropriate, SI will engage an external expert.

The investigating officer will notify the alleged perpetrator of the report, and will give them 14 days' notice to attend a hearing. At the hearing, the alleged perpetrator will be able to present their side of the story. The hearing will have in attendance the investigating office, two other members of staff, and

a support person, should the alleged perpetrator choose to bring one.

The investigating officer must review all evidence and come to a conclusion within 14 days of the hearing. If the investigating officer finds the alleged perpetrator to be in breach of any part of the SI Code of Conduct, disciplinary measures may be implemented. These include:

- Requirement to participate in an education program about consent and respectful relationships
- Permanent e-arrangement of perpetrator's timetable to prevent interaction between the people involved
- Redaction of awards and/or degrees issued to the perpetrator by SI
- Temporary suspension
- Demotion
- Expulsion from SI
- Termination of contract of employment with SI.

All parties will receive a written notification of the outcome of the investigation and the rationale behind the decision. The written notification will have attached information about what other avenues of action are available to those involved, including internal appeals and external grievance resolution options.

Reports by alumni and reports of incidents from years ago

All reports of sexual harassment and/or assault will be taken seriously. No matter when the incident occurred, SI will ensure that the victim/survivor has access to the appropriate support services.

If the alleged perpetrator named in the report remains at SI as a student or staff member, or can be contacted by SI, the investigation and disciplinary procedure outlined above will be applied.

If the alleged perpetrator cannot be reached, SI will nonetheless make a record of the report. This record will add to the data collected by SI to feed into review and improvement processes.

Interim response to report of sexual harassment and/or assault

For the duration of the investigation into the report, SI will ensure that the safety and comfort of the victim/survivor is protected. On receiving a report, SI will implement reasonable measures to achieve this, including:

- re-arranging the alleged perpetrator's classes to prevent interaction between the people involved
- restricting the alleged perpetrator's access to SI facilities.

Reporting to external authorities

SI will give the victim/survivor a choice in whether to report the matter to the police to the greatest possible extent. The victim/survivor may decide that SI's internal procedures are enough to acknowledge and address what occurred.

However, there are cases in which SI is legally required to report an incident to the police and/or emergency services. These include:

- If the victim/survivor is a danger to themselves or others
- If the alleged perpetrator is a danger to themselves or others
- If the victim/survivor or alleged perpetrator commit, or threaten to commit, a crime
- If a report to external authorities must be made, SI will as far as possible ensure that the victim/survivor is fully informed of what must be reported, why it must be reported, and what process may be implemented following the report.

SI must report critical incidents to the higher education regulatory body, and this includes incidents of sexual assault of someone under SI's care in any activity associated with SI. In a report to the regulatory body, the personal details of all people involved will be completely confidential.

Incident database

SI will establish an incident database for recording all reported incidents of sexual harassment and/or sexual assault, and the details of the investigation and disciplinary procedure that SI carried out in response. This database will allow SI to track the success of its anti-sexual harassment and assault initiatives.

The database will not store any personal details of the people involved.

Policy Implementation and Monitoring

The *Corporate Governance Board* delegates responsibility for the day-to-day implementation of this policy to the President, Dean and Provost.

The *Corporate Governance Board* will review all periodic reports from relevant committees and staff members.

Additionally, The *Corporate Governance Board* will review all relevant student complaints, concerns raised by staff members, and instances of student or staff misconduct on an ongoing basis.

The *Corporate Governance Board* must ensure that findings from these monitoring activities are taken into account in planning, quality assurance and improvement processes.

Related documents

Change the Program: national report on sexual assault and sexual harassment at Australian universities, 2017 https://www.humanrights.gov.au/sites/default/files/document/publication/AHRC_2017_ChangeTheCourse_UniversityReport.pdf

Australian Human Rights Commission - Sexual Harassment: <https://www.humanrights.gov.au/our-work/sex-discrimination/guides/sexual-harassment#sh>

Fact sheet on sexual assault laws in Australia: <https://aifs.gov.au/publications/sexual-assault-laws-australia>

Respect. Now. Always. campaign: <https://www.universitiesaustralia.edu.au/uni-participation-quality/>

[students/Student-safety/Respect--Now--Always-#.WaOhkZMjFE4](#)

Connecting the dots: Understanding sexual assault in university communities

<https://static1.squarespace.com/static/5762fc04f5e231826f09afae/t/58b3d08ddb29d6e7a2b8271d/1488179368580/Connecting+the+dots.pdf>

Definitions

Alleged perpetrator: someone who has been accused of misconduct, but has not yet been through an investigation process that follows the principles of procedural fairness.

Victim/survivor: In line with best practice, SI uses victim/survivor to refer to those who have been subjected to sexual harassment or assault.

Review schedule

This policy will be reviewed by the *Corporate Governance Board* every three years.

Version History				
Version number:	Approved by:	Approval date:	Revision notes:	Next review date:
1	Corporate Governance Board	13/11/2017		13/11/2020

▲ Related Documents

Conflict of Interest Policy
Critical Incident Response Policy
Information For Students Policy
Student Complaints and Appeals Policy
Student Counselling Policy
Student Welfare Policy
Work Health and Safety Policy
Staff Wellbeing Policy
Equity and Diversity Policy
Student Code of Conduct

End of document: "Sexual Harassment and Assault Policy"

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