

# Sexual Assault and Sexual Harassment Policy



## Purpose/objective

This Policy sets out the approach the Australasian Academy of Higher Education (AAHE) will take to preventing and responding to sexual assault and sexual harassment. The Procedure that follows explains how to implement the Policy.

## Scope

This Policy and Procedure applies to all AAHE students, staff, Board and committee members, education agents, contractors, consultants and visitors.

## Definitions

<p><b>consent</b></p>	<p>The <i>Crimes Act 1958 (Vic)</i> Section 36 defines consent in relation to sexual offences as free agreement and states that the circumstances in which a person does not consent to an act include, but are not limited to, the following— (a) the person submits to the act because of force or the fear of force, whether to that person or someone else; (b) the person submits to the act because of the fear of harm of any type, whether to that person or someone else or an animal; (c) the person submits to the act because the person is unlawfully detained; (d) the person is asleep or unconscious; (e) the person is so affected by alcohol or another drug as to be incapable of consenting to the act; (f) the person is so affected by alcohol or another drug as to be incapable of withdrawing consent to the act; (g) the person is incapable of understanding the sexual nature of the act; (h) the person is mistaken about the sexual nature of the act; (i) the person is mistaken about the identity of any other person involved in the act; (j) the person mistakenly believes that the act is for medical or hygienic purposes; (k) if the act involves an animal, the person mistakenly believes that the act is for veterinary or agricultural purposes or scientific research purposes; (l) the person does not say or do anything to indicate consent to the act; (m) having given consent to the act, the person later withdraws consent to the act taking place or continuing.</p>
<p><b>natural justice</b></p>	<p>Natural justice in the handling of a grievance involves all of the following elements:</p> <ol style="list-style-type: none"> <li>1. the opportunity for all parties involved to be heard and the right to a fair hearing</li> <li>2. the right to attend hearings or interviews with a friend or support person, if required</li> <li>3. the respondent having full knowledge of the nature and substance of the grievance</li> <li>4. the opportunity for all parties to respond to allegations made against them during the course of an investigation</li> <li>5. the right to an independent, unbiased decision-maker, and</li> <li>6. a final decision based solely on the relevant evidence.</li> </ol>

<b>sexual assault</b>	The <i>Crimes Act 1958 (Vic)</i> Section 40 defines sexual assault as intentionally touching another person and the touching is sexual and the person who was touched did not agree or consent.
<b>sexual harassment</b>	The <i>Sex Discrimination Act 1984 (Cth)</i> defines sexual harassment as when a person makes an unwelcome sexual advance, or an unwelcome request for sexual favours, to another person, or engages in any other unwelcome conduct of a sexual nature in relation to another person in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated the possibility that the other person would be offended, humiliated or intimidated.

Other terms used in this document are defined in the AAHE Glossary.

## Policy

1. AAHE has a zero-tolerance approach to sexual assault and sexual harassment and considers such behaviours to breach its codes of conduct.
2. AAHE will take actions that seek to minimise the risk of sexual assaults or sexual harassment both at AAHE and during AAHE-related activities off campus.
3. AAHE will organise regular training and communications for staff and students regarding the sorts of actions that constitute sexual assault and sexual harassment, why these are not acceptable, and what to do if they experience, are a witness to, or receive a disclosure about, such behaviour.
4. AAHE will respond quickly and sensitively to any incidents that are reported to have occurred at AAHE or during a AAHE activity, or to have made use of equipment or technology supplied by AAHE.
5. AAHE will ensure that any student or staff member who has experienced sexual harassment or sexual assault has ready access to expert advice and appropriate support.
6. Any AAHE staff member receiving a disclosure relating to sexual harassment or sexual assault will respond in a supportive and compassionate manner and will seek to minimise the trauma that disclosing can cause.
7. Any student or staff member who victimises another person for reporting a sexual assault or sexual harassment will be subject to disciplinary action.

## Related documents and relevant legislation

Tertiary Education Quality and Standards Agency, [Good Practice Note: Preventing and responding to sexual assault and sexual harassment in the Australian higher education sector](#) (July 2020)

[Change the Course National Report on Sexual Assault and Sexual Harassment at Australian Universities](#), AHRC 2017

Equity and Diversity Policy and Procedure

Privacy Policy and Procedure

Staff Code of Conduct

Staff Grievances Policy and Procedure

Student Code of Conduct

Student Complaints Policy and Procedure

Student Support Framework

Health and Safety Policy and Procedure

[Higher Education Standards Framework \(Threshold Standards\) 2021](#)

[Crimes Act 1958 \(Vic\)](#)

[Occupational Health and Safety Act 2004 \(Vic\)](#)

[Sex Discrimination Act 1984 \(Cth\)](#)

## Document information

**Document owner:** Board of Directors

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# Sexual Assault and Sexual Harassment Procedure

## 1 Safety on campus

1.1 AAHE takes a number of steps to ensure the safety of staff and students on campus. These include:

- requiring staff and students to carry their identification cards with them at all times and to show them when requested
- using CCTV near building entrances to enhance personal security
- having trained AAHE staff on campus whenever the building is open.

## 2 Awareness raising

2.1 AAHE's expectations in relation to personal conduct are made clear to staff and students from their first interactions with the Academy and are reinforced through a range of training sessions and other communications.

2.2 The student orientation program includes an overview of the Student Code of Conduct and the meanings of the terms it uses. Particular attention will be paid to sexual assault, sexual harassment and consent and examples will be provided to ensure that students understand the types of behaviours (both in person and online) that are unacceptable. The session will also discuss how students can enhance their own safety and alert students to the increased risks associated with alcohol consumption. The information may be provided in languages other than English where the trainer considers that this may be necessary.

2.3 The training will also encourage students to seek support where they experience sexual assault or harassment and to intervene (if it is safe to do so) where they witness such conduct.

2.4 The Staff Code of Conduct requires that AAHE staff model appropriate behaviour and intervene quickly and sensitively when inappropriate conduct is observed or is reported to have occurred, to ensure that it does not continue.

2.5 All staff participate in an induction program and undertake training to ensure that they understand their responsibilities in relation to preventing incidents of sexual assault or sexual harassment, how to respond when such incidents are brought to their attention and the importance of safeguarding the privacy of the parties involved.

2.6 The key messages will be reinforced through posters on campus and information published on the AAHE website.

## 3 Response

3.1 Any staff member to whom a student or another staff member discloses information about an incident of sexual assault or sexual harassment should be ready to

- refer the person to appropriate resources and support (refer to Section 5 below)
- ask the person whether they are sharing the information for the purpose of seeking advice or support, or to alert the Academy to a risk that it needs to address, or because they would like some other outcome
- clarify whether the person would like AAHE to handle the matter informally, or wishes to make a formal request that the Registrar or Dean investigate and respond
- explain that the person can report a sexual assault to the Police, as AAHE cannot conduct a criminal investigation; it can only investigate allegations to determine whether on the balance of probabilities a person has breached AAHE's code of conduct.

- 3.2 Informal handling might involve AAHE issuing general reminders about appropriate conduct or organising refresher training for groups of staff or students.
- 3.3 The possible outcomes of a formal approach include an apology, targeted training, alternative dispute resolution, disciplinary action where there is clear evidence or an investigator concludes that there has been a breach of AAHE's code of conduct, or referral to the Police as described in clause 4.6.
- 3.4 Where the alleged perpetrator is a AAHE student or staff member, the matter must be referred to the responsible Officer, which is normally the Registrar or Dean (unless the alleged perpetrator is the Registrar or Dean, in which case the matter must be reported to the Principal and Chief Executive Officer, unless the alleged perpetrator is the CEO, in which case the matter must be reported to the Chair of the Board of Directors), whether or not the person disclosing the incident wishes the matter to be handled formally.

#### 4 Formal report

- 4.1 Disclosures and referrals may be made verbally or in writing and must be treated carefully to protect the health and wellbeing of all parties involved.
- 4.2 Where the matter is referred for formal handling, the responsible Officer will determine how to proceed, taking into account
- whether the person sharing the information experienced or witnessed the incident
  - the wishes of the person making the disclosure
  - the nature of the incident and whether it occurred at AAHE or elsewhere
  - whether the report has been made anonymously
  - the level of detail that has been provided
  - the parties involved (staff, students or other parties)
  - the time that has elapsed.
- 4.3 The actions available to AAHE may be limited where the disclosure is anonymous and/or the information provided is incomplete.
- 4.4 The responsible Officer will ensure that appropriate precautionary measures are taken to ensure the safety and wellbeing of the person disclosing the incident.
- 4.5 If the person has also reported the incident to the Police, the responsible Officer may choose not to investigate to avoid compromising the criminal process. The responsible Officer should seek advice from the Police on this matter.
- 4.6 In other circumstances, however, the responsible Officer may refer the matter to the Police, such as when there is a need for urgent intervention, or multiple reports of improper conduct have been made about the same person, or there is a clear risk to AAHE students and/or staff.
- 4.7 If the responsible Officer determines that an investigation is required, the investigation will be conducted and the penalty determined in accordance with the Student General Misconduct or the Staff Misconduct Procedure as appropriate.
- 4.8 If the responsible Officer considers that a staff member's or student's conduct may pose a threat to another person's wellbeing or safety, the Registrar or Dean may direct the staff member or student to leave AAHE premises immediately, and not to return until advised.
- 4.9 All reports will be dealt with in a fair and impartial way, following the principles of natural justice. The responsible Officer will ensure that the person reporting the incident and the alleged perpetrator are advised as quickly as possible regarding the process and outcome.

- 4.10 A AAHE student or staff member who is dissatisfied with AAHE's response to a disclosure may make a complaint under AAHE's Student Complaints Policy or Staff Grievance Policy or may make a [complaint to TEQSA](#).

## 5 Support

- 5.1 Staff and students who have been sexually assaulted can contact either of the following 24-hour services for support:
- a. [Sexual Assault Crisis Line](#): call [1800 806 292](#)
  - b. [National Hotline for Sexual Assault, Domestic or Family Violence](#): call [1800RESPECT \(1800 737 732\)](#).
- 5.2 The Student Support Officer – Non-Academic will assist students to access other external supports as appropriate and to report a sexual assault to the Police on request.
- 5.3 Where an internal investigation is conducted, AAHE will offer separate, confidential support to both parties free of charge.
- 5.4 Where appropriate, the Dean will grant special consideration without requiring the student to submit a special consideration application form.
- 5.5 Any student who is dissatisfied with AAHE's response to a disclosure of sexual assault or sexual harassment may lodge a complaint under the Student Complaints Policy and Procedure. A staff member who is dissatisfied with AAHE's response may lodge a grievance under the Staff Grievances Policy and Procedure.

## 6 Responsibilities

- 6.1 The Dean is responsible for ensuring that academic staff understand the role they play in maintaining an environment that as far as is reasonably practicable is safe and without risks to health, including the risks posed by sexual assault and sexual harassment.
- 6.2 The Dean is also responsible for seeking input from students regarding AAHE's approach to reducing risk and handling disclosures of sexual assault and sexual harassment.
- 6.3 The Registrar is responsible for:
- the professional development of professional staff
  - ensuring that support is readily available to staff and students who have experienced sexual assault or sexual harassment, as well as to alleged perpetrators
  - reviewing AAHE's sexual assault and harassment processes as part of the reviews of the quality of AAHE's student support services
  - benchmarking AAHE's processes and supports with other higher education providers', arranging periodic independent reviews and implementing proposed improvements.
- 6.4 Each AAHE staff member and student is expected to avoid inappropriate behaviour as set out in the Staff Code of Conduct and Student Code of Conduct.

## 7 Record keeping and reporting

- 7.1 The Dean will record data in relation to student disclosures and formal reports of sexual assault and sexual harassment, the actions taken in response and the outcomes.
- 7.2 The Chief Operating Officer will record data in relation to staff disclosures and formal reports of sexual assault and sexual harassment, the actions taken in response and the outcomes.
- 7.3 All details will be kept in a secure register that is only accessible to the Dean and the Chief Operating Officer.

- 7.4 The Principal and Chief Executive Officer will provide de-identified reports every six months to the Board of Directors on sexual assault and sexual harassment statistics, any systemic issues identified, prevention strategies adopted and any actions that may be required to facilitate improvements.
- 7.5 The Principal and Chief Executive Officer will determine whether the reported incidents indicate that there has been a lapse in compliance with the Higher Education Standards Framework that requires that TEQSA be notified.

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