

Sexual Assault, Sexual Harassment and Respectful Relationships (Students) - Governing Policy

1. Purpose of policy

1.1 The University has a responsibility to ensure student have a safe learning environment while they are engaged in University related activities.

1.2 The University will promote the principles of responsible and respectful behaviour and ensure a safe and productive environment.

1.3 The purpose of this policy is:

(a) to provide a framework for students (including former students) to disclose and report sexual assault and sexual harassment; and

(b) to provide a framework for the University to respond to disclosures and reports from students involving sexual assault and sexual harassment.

2. Policy scope and application

2.1 This policy applies to all students and former students while they are or have been engaged in University related activities either on or off campus. Locations for University related activities include (but are not limited to):

(a) social activities on campus;

(b) interactions between students at University affiliated student accommodation;

(c) interactions between students on digital campuses; and

(d) interactions between students at University affiliated clubs and societies.

2.2 If reported behaviour does not have the requisite connection to the University, the University will provide support and guidance about accessing relevant support services.

2.3 Past students can make a disclosure or report which occurred when they were a student. They will be provided with information and referred to support services by the University. Past students should be aware that the University may be limited in any investigative actions it can take.

2.4 Staff who wish to make a disclosure or a report in relation to the behaviour of another staff member or contractor should follow the University's Guidelines for the Resolution of Complaints – Staff. If their complaint is about a student, the University's Student Misconduct – Procedures will be followed.

3. Definitions

The following definitions are in addition to those in the University's Glossary of Terms for policies and procedures:

Assault has its legal meaning (Section 245 *Criminal Code* 1899 (Qld)) and includes striking, touching moving or otherwise applies force of any kind to another person without consent.

Bullying is repeated and unreasonable behaviour, whether intentional or unintentional, directed towards an individual or a group that creates a risk to health and safety.

Some of the more common types of bullying behaviours are:

- Physical –damaging, stealing belongings, threats of violence, practical jokes or initiations, denying access to information, supervision, consultation or resources to the detriment of the student;

APPROVAL AUTHORITY

Council

RESPONSIBLE EXECUTIVE MEMBER

Vice-Chancellor and President

DESIGNATED OFFICER

Pro Vice-Chancellor (Students)

FIRST APPROVED

22 February 2021

LAST AMENDED

31 March 2022

REVIEW DATE

27 April 2026

STATUS

Active

- Verbal/written - name-calling, offensive language, unjustified criticism or complaints, insulting someone about an attribute, quality or personal characteristic;
- Social – deliberately excluding someone from study-related activities, spreading misinformation or malicious rumours, sharing information that will have a harmful effect on the other person, damaging a person's social reputation or social acceptance; and
- Cyberbullying – any form of bullying behaviour that occurs online or via a mobile device. It can be verbal or written, and can include threats of violence as well as images, videos and/or audio.

Bystander means a person who sees and recognises unacceptable behaviour or a potentially harmful situation.

Consent means, for the purposes of this policy and its related policies, freely and voluntarily consenting to a sexual act. A person cannot give their consent when they are:

under the age of 16 years;

asleep or unconscious;

intoxicated or affected by drugs;

intimidated, coerced or threatened;

unclear about the identity of the person performing the act; and

deceived or mistaken about the nature of the activity.

Contractor means any person, either independent or working for a business who undertake work or deliver services to USC under contract, or any person working as a subcontractor for either an individual or business in contractual agreement with USC

Disclosure is when a student seeks advice and/or support from a member of the University's community about their experience of sexual assault, sexual harassment, discrimination, bullying, harassment or assault.

Discrimination as defined in the *Anti-Discrimination Act 1991* (Qld), means to treat or to propose to treat, a person with an attribute (listed in the Act) less favourably or to impose unreasonable terms or conditions for which individuals with a particular attribute are unable to comply. Attributes include:

Sex

Relationship status

Pregnancy

Parental Status

Breastfeeding

Age

Race

Impairment

Religious belief or religious activity

Political belief or activity

Trade Union activity

Lawful sexual activity

Gender Identity

Sexuality

Family responsibilities

Association with, or relation to, a person identified on the basis of any of the above attributes.

Discrimination can be either direct or indirect. Direct discrimination takes place when an individual is disadvantaged or treated less favourably than another person. Indirect discrimination happens when a practice or policy appears to be fair because it treats everyone the same way but actually disadvantages people from a particular group.

For the avoidance of doubt, discrimination includes antisemitism, which is defined by the International Holocaust Remembrance Alliance (IHRA) as “a certain perception of Jews, which may be expressed as hatred toward Jews. Rhetorical and physical manifestations of antisemitism are directed toward Jewish or non-Jewish individuals and/or their property, toward Jewish community institutions and religious facilities”.

Harassment is any form of behaviour that is unwelcome, unsolicited, unreciprocated and usually (but not always) repeated. It is behaviour that is likely to offend, humiliate or intimidate.

Report is when a student asks the University to use its policies and procedures to resolve a matter pertaining to their experience of sexual assault, sexual harassment, discrimination, bullying, harassment or assault.

Reporting student means a person who makes a report of sexual assault, sexual harassment, discrimination, bullying, harassment or assault using the University's policies.

Respondent means a person against whom a report of sexual assault, sexual harassment, discrimination, bullying, harassment or assault is made under the University's policies.

Sexual assault has its legal meaning (Section 352 *Criminal Code* 1899 (Qld)) and includes any unwanted or forced sexual act or behaviour that occurs without consent. Sexual assault occurs when a person indecently assaults another person or procures another person, without their consent to commit a sexual act. Examples of sexual assault include:

inappropriate touching without consent;

forcing someone to perform a sexual act;

forcing someone to see a sexual act including the use of electronic media; and

sexual behaviour to which a person has not agreed.

Sexual harassment: In accordance with the *Anti-Discrimination Act 1991* (Qld), sexual harassment is any unwelcome conduct of a sexual nature in relation to a person in circumstances where a reasonable person would have anticipated the possibility that the other person would be offended, humiliated or intimidated by the conduct. It can be a single incident or a persistent pattern and can range from subtle behaviour to explicit demands for sexual activity. Examples of sexual harassment include:

inappropriate jokes or comments with sexual connotations;

the display of offensive material;

stares and leers or offensive hand or body gestures;

comments and questions about another person's sexual conduct and/or private relationships that are intrusive;

persistent unwelcome invitations;

requests for sexual favours;

offensive written, telephone or electronic mail or any other electronic means of communication, including pictures or videos of body parts or sexualised activities;

unnecessary close physical proximity including persistently following a person;

unwelcome physical contact such as brushing against or touching a person;

denigrating comments regarding a person's gender or sexual preference; or

negative behaviours, e.g., intimidation or exclusions related to the sex or gender diversity of the recipient.

Third party reporter is a person who makes a report of sexual assault, sexual harassment, discrimination, bullying, harassment or assault in relation to another person.

Trauma informed is a response to sexual assault, sexual harassment, discrimination, bullying, harassment or assault that recognises the impact of trauma and prioritises the physical, psychological and emotional safety of all the parties associated with a complaint. It recognises the importance of empowerment and choice for those who have experienced sexual assault, sexual harassment, discrimination, bullying, harassment or assault and has as its aim the avoidance of further harm or trauma.

Vexatious report is a report made maliciously with the intent to annoy or embarrass the respondent or made with another ulterior purpose. A report found to be vexatious will be dismissed by the University. Making a vexatious report may constitute misconduct under the Student Conduct – Governing Policy.

Victimisation means threatening or subjecting someone to unfair treatment because they have made, or intend to make, a report of sexual assault, sexual harassment, discrimination, bullying, harassment or assault. This also includes those who have supported another person in making a report or acted as a witness in any investigation.

University community means anyone to whom its acceptable behaviour standards apply.

Unreasonable behaviour means behaviour that a reasonable person having considered the circumstances, would seem as unreasonable including behaviour that is victimising, humiliating, intimidating or threatening.

4. Policy Statement

4.1 The University will promote and foster a safe environment for its students and staff and fulfills its responsibilities and obligations as a registered university in good standing consistent with the *Tertiary Education Quality and Standards Agency Act 2011* (Cth) and the *Higher Education Standards Framework (Threshold Standards) 2015* (Cth).

4.2 The University is committed to promoting the principles of responsible and respectful behaviour to ensure all members of its community can enjoy a productive working and learning environment free from sexual assault and sexual harassment.

4.3 The University will endeavour to follow the expectations outlined by TEQSA and Universities Australia

5. Principles

5.1 Students are expected to behave in a way that promotes a safe and inclusive learning environment, by treating other members of the University community with respect and courtesy, and refraining from any actions which might reasonably be perceived as sexual assault or sexual harassment.

5.2 The University will use educative approaches and awareness raising to promote respectful relationships for the prevention of sexual assault and sexual harassment. Its aim is to ensure that students know their rights and responsibilities, and to encourage the reporting of behaviour that breaches this policy.

5.3 The University will not tolerate sexual assault or sexual harassment under any circumstances, and they constitute misconduct under the Student Conduct – Governing Policy. The University will take all reasonable steps to eliminate such behaviours or actions towards students and its community.

5.5 The University will take all disclosures and reports seriously, investigate in accordance with the principles of procedural fairness and respond with reference to the USC Student Charter and in accordance with the Sexual Assault, Sexual Harassment and Respectful Relationships (Students) – Procedures.

5.6 The University's response to sexual assault and sexual harassment will be compassionate, supportive, confidential, culturally competent and follow the principles of procedural fairness.

5.7 The University will follow a trauma informed approach and provide students support in the management of disclosures or reports as outlined in Sexual Assault, Sexual Harassment and Respectful Relationships (Students) – Procedures.

5.8 The University recognises that sexual assault and sexual harassment can affect the health and wellbeing of members of its community. Provision of dedicated support services for students who have experienced sexual assault or sexual harassment is integral to ensuring their well-being and continued participation in their education.

5.9 The University will seek to use inclusive and non-discriminatory language in all its communications.

5.10 The University monitors and reviews disclosures and reports made under this policy and associated procedures to identify patterns of recurring incidents and takes actions to mitigate future risks.

5.11 4.4 The University's aims to:

- (a) implement sexual assault and sexual harassment prevention strategies, including education and awareness raising;
- (b) promote a University wide commitment to following a trauma informed response in managing disclosures and reports of sexual assault and sexual harassment;
- (c) prioritise the well-being of a student disclosing or reporting sexual assault or sexual harassment;
- (d) respond appropriately to the particular needs of students who identify as Aboriginal and Torres Strait Islander, LGBTIQ+, gender diverse students, students with a disability and students from culturally and linguistically diverse backgrounds;
- (e) follow the principles of procedural fairness across all the University's responses to reports of sexual assault and sexual harassment;
- (f) ensure that disclosures and reports of sexual assault and sexual harassment are dealt with in a timely, accessible and confidential way;

- (g) provide specialist staff to provide support and advice to protect the safety and well-being of a person reporting and respondents;
- (h) provide support and advice to witnesses and third-party reporters;
- (i) Respond appropriately to anyone who is found to have perpetrated sexual assault or sexual harassment;
- (j) Respond appropriately to any person who victimises another for making a disclosure or a complaint of sexual assault or sexual harassment;
- (k) respect the choice of a person reporting to make a confidential disclosure or to make a report. However, the University may need to compromise this choice to protect the safety of its community. The University will inform the student as soon as possible if a decision is made to compromise their choice;
- (l) keep accurate and confidential records of disclosures and reports of sexual assault and sexual harassment; and
- (m) monitor and improve responses to sexual assault and sexual harassment.

6. Authorities/Responsibilities

The following authorities/responsibilities are delegated under this policy:

| ACTIVITY / ACTION | UNIVERSITY OFFICER/COMMITTEE |
|--|--|
| Oversee the educative approaches and awareness raising towards the prevention of sexual assault, sexual harassment, assault, harassment, discrimination, or bullying | Pro Vice-Chancellor (Students) or delegate |
| Oversee the management of disclosures and reports made by students under this policy and associated procedures | Pro Vice-Chancellor (Students) or delegate |
| Monitor and review disclosures and reports and take actions to mitigate future risks | Pro Vice-Chancellor (Students) or delegate |

END

RELATED DOCUMENTS

- Student Conduct - Governing Policy
- Student Grievance Resolution - Governing Policy
- Student Grievances - Procedures
- Student Misconduct - Procedures

LINKED DOCUMENTS

- Sexual Assault, Sexual Harassment and Respectful Relationships (Students) - Procedures

SUPERSEDED DOCUMENTS

- Anti-Discrimination and Freedom from Bullying and Harassment (Students) - Governing Policy
- Sexual Harassment Prevention (Students) - Governing Policy

RELATED LEGISLATION / STANDARDS

- Anti-Discrimination Act 1991 (Qld)
- Australian Human Rights Commission Act 1986 (Cwlth)
- Sex Discrimination Act 1984 (Cwlth)
- Higher Education Standards Framework (Threshold Standards) 2021 (Cth)
- Student Charter
- Criminal Code 1899 (Qld)
- Human Rights Act 2019 (Qld)
- TEQSA Guidance Note: Grievance and Complaint Handling
- TEQSA Good Practice Note: Preventing and Responding to Sexual Assault and Sexual Harassment
- Universities Australia Guidelines for University Responses to Sexual Harassment and Sexual Assault