

SEXUAL ASSAULT AND SEXUAL HARASSMENT POLICY AND PROCEDURES

Approved	Council	Academic Board
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Responsible Officer	Academic Registrar	
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Related Documents (explicitly cross-referenced)		
Higher Education Standards (2015)		
National Code (2018) (if directly relevant)		

1. Purpose

This policy document has been created in order to:

1. Provide information to staff, students and others associated with the College, about the issue of sexual assault and harassment as it applies to the context of the Sydney College of Divinity (SCD).
2. Support an environment of safety and a culture of respect in the SCD, and in doing so, foster relationships of trust, support and encouragement among staff, students and others associated with the College and its Member Institutions.
3. Guide the understanding of staff, students and others as to what is acceptable and unacceptable behaviour within the SCD and indicate the consequences of unacceptable behaviour.
4. Detail the steps to be taken when an incident occurs.

2. Scope

This policy applies to all staff, students, families, affiliates, visitors, previous staff and students, and other relevant people, who are currently, or have been previously, under the supervision of the SCD and its Member Institutions.

The policy will apply to:

- all areas of a campus;
- all accommodation owned or operated by the SCD or its Member Institutions, whether attached to a campus or separate from it;
- all off-campus activities conducted under the supervision of the college or its Member Institutions, including field work, professional experience placements, and retreats; and
- all events organised and run by the SCD or its Member Institutions, whether on-campus or off-campus.

3. Governance

This policy will be overseen and reviewed by the SCD Council. Member Institutions will be responsible for implementing this policy.

4. Principles

The SCD affirms the following guiding principles:

- Sexual assault and harassment are a current and important issue for the whole of society.
- Sexual assault and harassment are a necessary concern for all places of work and study.
- Sexual assault and harassment have legal implications for individuals and organisations, potentially involving criminal prosecution and/or litigation.
- Sexual assault or harassment in any form, by any person, is unacceptable behaviour, for which the SCD has zero tolerance.

- SCD is committed to a safe and equitable work and study environment.
- All individuals are entitled to a sense of personal dignity, and to live, work, and study in an environment free from risk, threat, harassment or bullying.
- All possible measures are to be taken to prevent sexual assault or harassment is as important as taking appropriate measures in response.
- Those experiencing sexual assault or harassment are entitled to protection and support.
- Those alleged to have committed sexual assault or harassment are entitled to a fair hearing, and the presumption of innocence until guilt is established.

Given that the SCD operates in the context of Christian faith communities and theological education, the following principles are also affirmed:

- Churches and Christian organisations are not immune from the issues of sexual assault and harassment and must be equipped for appropriate and meaningful responses when such incidents occur.
- A Christian environment should reflect standards of Christian love, morality, and concern for the well being of individuals holistically.
- Within Christian communities, it is important to recognise the Bible's affirmation of (i) the value of and dignity of all individuals as God's creation and the recipients of His love, (ii) unity and equality in Christ regardless of race, social status or gender, (iii) the sanctity of marriage and the importance of sexually appropriate behaviour outside of that relationship, and conversely, the unacceptability of sexually inappropriate behaviour, (iv) the church as a family where men and women are to relate to each other as brothers and sisters with appropriate respect.

5. Definitions

5.1 Inappropriate Behaviour

SCD will deem behaviour as inappropriate, and therefore liable to action in response, where that behaviour:

- contravenes standards of behaviour set out in any code of conduct produced by the SCD or any of its Member Institutions; or
- violates a person's own standards of propriety, such as may be based on culture, personal morality, or personal faith; or
- though not intentionally sexual in nature, could be interpreted as such, and therefore causes discomfort to the person (e.g. physical contact, proximity).

5.2 Sexual Harassment

According to the Law Council of Australia, "Section 28A of the *Sex Discrimination Act 1984* (Cth) defines sexual harassment as when a person makes an unwelcome sexual advance, an unwelcome request for sexual favours, or engages in other unwelcome conduct of a sexual nature in relation to a person. This occurs in circumstances where it is possible that the person harassed would be offended, humiliated or intimidated. Sexual harassment can be subtle and implicit rather than explicit." (lawcouncil.asn.au).

The SCD understands sexual harassment as any behaviour directed towards a person that is:

- sexually motivated;
- unwanted; and
- causes discomfort, offence, intimidation, embarrassment or humiliation.

This behaviour includes, but is not restricted to:

- physical contact;
- unwanted personal attention;
- intrusive questions about a person's private life;
- language of a sexual nature;
- communication of a sexual nature; or
- actions of a sexual nature.

SCD also understands that sexual harassment can involve legal considerations under the Sex Discrimination Act, and possibly the sexual assault section of the Crimes Act.

5.3 Sexual assault

According to the NSW Department of Communities and Justice, "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" (victimsservices.justice.nsw.gov.au). Sexual assault, as set out in the NSW Crimes act 1900 No.40 (legislation.nsw.gov.au), includes sexual intercourse without consent, sexual touching without consent, sexual acts without consent, inflicting or threatening to inflict bodily harm with the intention of having sexual intercourse, sexual intercourse with persons under the age of 16, incest, continuing unlawful sexual relationships, forced self-manipulation, and procurement and grooming (particularly of children) for the purpose of sexual intercourse.

The SCD understands sexual assault as behaviour that involves:

- sexual activity of any kind without consent;
- sexual activity of any kind gained by coercion, intimidation, enticement, deceit, use of drugs or alcohol;
- threats or enticements directed towards engaging in sexual activity of any kind;
- participation in unlawful sexual activity of any kind, regardless of consent.

SCD recognizes that sexual assault is action that constitutes a criminal offence and can lead to prosecution and punishment under law.

5.4 Participants

Complainant: the person against whom an action is alleged to have taken place.

Reporter: a person who makes an initial report about an incident, having observed it, or become aware of it, without having been directly involved.

First respondent: the person to whom an initial report is made, for example, a friend, student leader, staff member, legal representative or member of the police. This might or might not be the staff member who is officially responsible for receiving and dealing with such reports.

Alleged offender: the person against whom a report or allegation is made.

6. Policy

1. The SCD will take all possible measures to prevent instances of sexual assault or harassment.
2. The SCD will inform all staff and students of the importance of the issue, and the need to take it seriously.
3. The SCD will educate all staff, students and other associated people as to appropriate and inappropriate behaviour, sexual harassment and sexual assault. It will do this through producing and running programs in-house, as well as engaging external consultants or educators as appropriate.
4. The SCD will treat seriously any report of inappropriate behaviour, sexual harassment or sexual assault, and will take appropriate steps in response.
5. The SCD will support those involved in an incident, as part of its pastoral care responsibilities.
6. Those having responsibility for managing an incident will execute fair and reasonable judgement at all times, without bias or prejudice.
7. Those having responsibility for managing an incident will protect the privacy and dignity of those involved at all times.
8. Those having responsibility for managing an incident will inform police or other relevant authorities where a criminal action has occurred.
9. Those having responsibility for managing an incident will seek the consent of persons involved before informing others who might be connected to the case (e.g. families).
10. Those having responsibility for managing an incident will engage other appropriate parties (legal, social, counselling, etc.) as the need arises, to ensure the best outcome for all involved. This will be done with the knowledge and consent of those involved in the incident.

7. Procedures

7.1 Student Complaints

1. The student or representative (e.g. first responder) reports the incident to the Student Support Officer.
2. The Student Support Officer gathers relevant information and produces a Sexual Assault and Harassment report, ensuring all key details are included.
3. The Student Support Officer informs the Principal of the Member Institution or the Dean of SCD.

4. Once informed, the Principal or Dean will initiate steps as per the Student Grievance Policy and Procedures.
5. In cases of a criminal nature, the police will be informed as soon as possible.

7.2 Staff Complaints

1. The staff member or representative (e.g. first responder) reports the incident to the designated member of staff responsible for dealing with staff complaints.
2. If the initial report is not made to the Principal of the Member Institution, the designated staff member reports the incident to the Principal or the Dean of SCD as appropriate.
3. Once informed, the Principal or Dean will initiate steps as per the SCD's Code of Conduct, Staff Grievance Policy and Procedure and the individual's terms of employment.
4. In cases of a potentially criminal nature, the police will be informed as soon as possible.

7.3 Other Complaints

This procedure deals with complaints made by persons who are neither staff nor students (e.g. family members, visitors, contractors)

1. The complainant or representative (e.g. first respondent, legal representative) reports the incident to the SCD or Member Institution.
2. The matter is referred to the staff member responsible for dealing with such complaints, who gathers all key information.
3. If the incident is not reported to the Principal of the Member Institution or Dean of SCD in the first instance, the designated staff member informs the Principal or Dean as appropriate.
4. Once informed, the Principal or the Dean will initiate steps as relevant to the incident, in line with the relevant grievance policy, or terms of employment.
5. In cases of a criminal nature, the police are informed as soon as possible.

8. Possible Outcomes

Outcomes of individual cases will be determined according to the nature of the case, in line with complaint and grievance policies and procedures.

In general terms, the following outcomes may ensue from an incident.

Inappropriate behaviour: informal warning, guidance or education, interview and reprimand, formal warning letter, counselling and/or mediation, apology to complainant.

Sexual harassment: interview and reprimand, formal warning letter, counselling and/or mediation, suspension or termination of employment or enrolment, report to legal authority with possible legal action.

Sexual assault: report to police with possible criminal prosecution, termination of employment or enrolment.

9. Preventative Measures

In order to ensure that all possible steps are taken to prevent incidents of sexual assault or harassment from occurring, the SCD will:

- Make up-to-date information regarding sexual assault and harassment available on its website, and in printed form where appropriate. This will include highlighted information relevant to prospective students and their families.
- Host annual sessions at Member Institutions for staff and students, to provide information and training about the issue of sexual assault and harassment and promote its zero tolerance policy. These may be presented as part of student orientation or may be held at other times as appropriate for the Member Institution.
- Expect Member Institutions to provide regular guidance to staff and students, such as providing occasional reminders to students during lectures or student meetings, or to staff during staff meetings.
- Expect Member Institutions to regularly monitor and review the safety and security of students, staff and visitors to their campus, and periodically check this as part of its oversight role
- Encourage all staff and students of the College and its Member Institutions to maintain awareness of the issues and be able to identify potential problems arising out of staff or student behaviour.

10. Roles and Responsibilities

10.1 The Sydney College of Divinity

SCD is responsible for

- producing and reviewing this policy;
- overseeing the implementation of the policy in the Member Institutions;
- providing support, if required, to Member Institutions in dealing with incidents;
- being available as a higher level of contact if issues cannot be resolved at Member Institution level;
- taking appropriate action in response to incidents that occur on SCD premises or under direct SCD supervision; and
- cooperating fully with any police investigation or legal inquiry associated with an incident.

10.2 Member Institutions

Member institutions are responsible for:

- implementation of the policy in the context of their particular institution and its operations;
- taking appropriate action in response to incidents that occur on their premises or under their supervision;
- reporting incidents to the SCD; and
- cooperating fully with any police investigation or legal inquiry associated with an incident

10.3 Responsible Staff Members

Staff members who are designated points of contact for receiving complaints, for example, the Student Support Officer, are responsible for

- receiving and assessing the nature of a complaint;
- gathering information, reporting accordingly and keeping all relevant records; and
- providing support to the complainant and others affected by an incident.

10.4 First Respondents

While first respondents are under no obligation to act on behalf of the complainant, they often do, being the person who either reports the incident, encourages the complainant to report the incident, or provides support to the complainant during the process of reporting and dealing with an incident. First respondents may variously offer:

- information that they have received from the complainant;
- other supplementary information that might be relevant to the case;
- legal advice to the complainant; or
- personal support to the complainant.

From the point of view of the SCD, the role of a first respondent is to provide information to assist in the management of the case, or to support the complainant in the process of making a complaint, but not to be actively involved in case management, unless specifically requested by the complainant.

10.5 Complainants

The SCD recognizes that persons who have experienced an incident of sexual assault or harassment will most likely be suffering a degree of emotional distress as a result, and this will impact on their capacity to report and deal with the management of the incident. With that in view, the SCD will expect complainants:

- to provide as much information as possible to assist with the management of the case;
- to report the incident truthfully and as accurately as possible; and
- to cooperate in the ongoing case management as fully as they are able.

10.6 Alleged offenders

While an alleged offender will not be regarded as guilty of an offence before all the facts of an incident are established, the alleged offenders will still be expected to:

- cooperate fully in the management of the case;
- provide all relevant information truthfully and accurately; and

- accept any interim measures that may be implemented to ensure a full and fair resolution of the case.

11. Confidentiality

All cases involving reports of inappropriate behaviour, sexual harassment or sexual assault will be treated confidentially, with the following guidelines to apply:

- the names of those involved in an incident will not be disclosed without consent;
- the details of an incident will not be disclosed, except to authorised persons;
- records of incidents will be kept secure, and can only be accessed by authorised persons, or with the consent of the person;
- where information about an incident needs to be shared (e.g. at a staff meeting, to the student body), that information must be of a general nature and must not identify individuals involved or disclose details about the incident: this will be done with the knowledge of those involved; and
- in all circumstances where information might need to be disclosed, this will be done with the knowledge and consent of those involved.

12. Monitoring and Evaluation

12.1 Policy Review

This policy will be periodically reviewed internally and externally, according to standard SCD practice, in line with the requirements of Higher Education and CRICOS standards.

12.2 Reporting

1. Member Institutions will provide to SCD, reports of incidents and their management.
2. The SCD will produce a yearly report, detailing the number of incidents that took place.

12.3 Case evaluation

The SCD may evaluate specific cases of sexual assault or harassment with regard to:

1. how the policy and procedure was followed;
2. whether the actions taken were appropriate;
3. whether the outcome was satisfactory; and
4. any further implications of the case for the SCD or the Member Institution.

13. Related Documents or Legislation

SCD Documents

1. Code of Conduct
2. Staff Grievance Policy and Procedures
3. Student Grievance Policy and Procedures
4. Critical Incident Policy and Procedures
5. Information regarding safety on campus and help information on college websites, student handbooks and other booklets or pamphlets.

Legislation

1. Sex Discrimination Act 1984, Section 28a.
2. State Crimes acts.
3. Child Protection legislation.