



SEXUAL ASSAULT AND SEXUAL HARASSMENT POLICY

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Superseded documents	None
Related documents	<i>Code of Conduct Policy</i> <i>Critical Incident Policy</i> <i>Orientation Program Rules</i> <i>Grievance Resolution Policy for Domestic Students</i> <i>Grievance Resolution Policy for Overseas Students</i> <i>Risk Management Policy</i> <i>Risk Management Procedure</i> <i>Sexual Assault and Sexual Harassment Procedure (under development)</i> <i>Sexual Assault and Sexual Harassment Taskforce Terms of Reference</i> <i>Staff Grievance Resolution Policy</i> <i>Whistleblower Policy</i>
Related HE Standards	2.3, 2.4, 6.1, 6.2, 7.2
Student Lifecycle Stage/s	Admission, Enrolled, Graduated

If you or someone else requires help in an emergency, contact **000**.

If an experience of sexual assault or sexual harassment has affected or distressed you, these national services are available for support.

- **1800RESPECT** (Ph: 1800 737 732) – National Sexual Assault, Domestic Family Violence Counselling Service
- **Lifeline** (Ph: 13 11 14) – 24-hour crisis support and suicide prevention
- **Beyondblue** (Ph: 1300 224 636) – Mental health support
- **Suicide Call Back Service** (Ph: 1300 659 467)

You can also find information about how to access support on the ACT website here:

<https://www.actheology.edu.au/student-support-services/>



1. PURPOSE

To outline what behaviours constitute sexual harassment or sexual assault within the Australian College of Theology (ACT) and its Affiliated Colleges and to set out how the ACT will respond to incidents. The policy also provides a framework for providing a safe environment for students and staff in relation to incidents of sexual harassment or sexual assault.

2. DEFINITIONS

ACT is the Australian College of Theology Limited.

ACT Office is the office of the **ACT**.

ACT website is the website for the ACT: www.acttheology.edu.au.

Affiliated College is an institution approved to offer an accredited higher education award of the **ACT**.

Board is the Board of Directors of the **ACT**.

Course Learning Outcomes are **learning outcomes** for **courses of study**.

course of study is a course of **units** that lead to an award given by the **ACT**.

Dean is the Dean and Chief Executive Officer of the **ACT**.

learning outcomes are statements of what a student should have achieved by completing a **unit** or **course of study**. Learning outcomes specify what a student is expected to:

- (a) know and understand;
- (b) be able to do; and
- (c) become as a result of taking the course and/or the unit.

officer is a person who is a member of one of the governing boards or committees of the **ACT** or an **Affiliated College**.

Precautionary actions are actions taken to promote the safety and well-being of students and staff and to minimise the risk of harm to them, and to preserve the capacity of the ACT and Affiliated Colleges to deal effectively with a disclosure or report of sexual assault or sexual harassment.

Principal is the Principal or equivalent position at an **Affiliated College**.



Procedures are the procedures set out in the *Sexual Assault and Sexual Harassment Procedure* which support this policy.

ACT Registrar is the staff member of the **ACT** who manages academic administration.

SASH Contact Officer is a designated employee of the **ACT** or an **Affiliated College** with responsibility for providing information and support in relation to incidents of **sexual assault** and **sexual harassment**.

sexual assault is a term covering a range of criminal offences involving a sexual act or sexual contact without consent.

***Note:** Sexual assault is defined more broadly in this Policy than in the legislation of the States and Territories to encompass a nationally applicable range of offences related to sexual conduct occurring without consent. A person consents to take part in sexual activity if they have freely and voluntarily agreed to take part and made this known by some means. Consent can be withdrawn at any time and cannot be presumed based on previous experience. Not saying or not doing anything does not imply consent. Consent cannot be given where a person is unconscious or in a state where they are unable to freely and clearly express consent. Consent cannot be given by a child under the age of consent specified in the law of the relevant state or territory.*

sexual harassment is an unwelcome sexual advance, an unwelcome request for sexual favours, or other unwelcome conduct of a sexual nature in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated the possibility that a person would be offended, humiliated or intimidated.

***Note:** This definition is based on the definition in the Sex Discrimination Act 1984 (Cth).*

staff is any person employed or engaged as a contractor by the **ACT** or an Affiliated College.

student is a current student of the **ACT**.

study mode (sometimes called the delivery mode) is a description of the type of delivery of a course or unit including:

- (a) in relation to courses, attendance/on-campus (also called internal), off-campus (also called online, distance and external) and multimodal, which is a combination of the other two; and
- (b) in relation to units, on-campus, off-campus, intensive, directed study contract and blended.



TEQSA is the *Tertiary Education Quality Standards Agency*.

Unit Learning Outcomes are **learning outcomes** for **units**.

unit is short for **unit of study**.

unit of study is a block of study in a particular field.

WHS is Workplace Health and Safety which is the discipline involving the management of risks to the health and safety of all stakeholders in the workplace.

3. SCOPE

- 3.1. This Policy and the Procedure apply to all students, staff and officers and to behaviour by them on the property of the ACT or Affiliated Colleges, at other locations and in online environments where course-related activities are conducted, or that has a connection with the ACT or an Affiliated College.
- 3.2. For behaviour that occurs in other contexts, aspects of this Policy may apply, especially those related to student support, risk management, precautionary actions and disciplinary action.
- 3.3. Any person who believes that a person to whom this Policy applies has engaged in sexual assault or sexual harassment may bring a complaint under this Policy and the Procedure.
- 3.4. An Affiliated College may adopt a separate code of conduct (or similar) that describes standards of conduct for behaviour in accordance with the Christian beliefs, values and mission of that Affiliated College. An alleged breach of such a code only falls under the requirements of this Policy where the alleged behaviour constitutes sexual assault or sexual harassment. For the avoidance of doubt, the Bible sets out expectations regarding appropriate contexts for sexual behaviour, such as within marriage, and these expectations may form the basis of requirements under a separate code of conduct.
- 3.5. Sexual assault and sexual harassment may occur within marriage as well as other consensual relationships and sexual assault or sexual harassment that occurs in these relationships is within the scope of this Policy.

4. POLICY STATEMENT

- 4.1. The ACT considers sexual assault and sexual harassment are both unacceptable forms of behaviour, and will not tolerate them under any circumstances.
- 4.2. The ACT seeks to provide for its students, staff and officers a safe environment that is free of sexual assault and sexual harassment.



4.3. The ACT does this by using reasonable endeavours, working in conjunction with Affiliated Colleges including:

- promoting and fostering a safe environment for students at Affiliated Colleges;
- raising awareness about sexual assault and sexual harassment;
- providing a means for reporting incidents;
- offering support to those subjected to sexual assault and sexual harassment; and
- taking appropriate action in response to confirmed sexual assault and sexual harassment.

4.4. Students, staff and officers are required to maintain standards of behaviour set by the ACT as a condition of enrolment, employment or engagement.

5. PRINCIPLES

Behaviours that may constitute sexual harassment and sexual assault

5.1. Sexual assault is any physical contact, or intended contact, of a sexual nature without consent, using physical force, intimidation or coercion including:

- sexual intercourse;
- indecent assault;
- penetration by objects;
- other sexual activity.

5.2. Sexual harassment may be physical, verbal and can occur online and through media involving information technologies. Sexual harassment may involve one or more of the following:

- unwanted physical contact, such as touching or fondling;
- staring or leering in a sexual manner;
- sexually suggestive comments, innuendo or jokes;
- displaying, sending or circulating sexually explicit pictures or posters;
- unwanted invitations to go out on dates;



- unwanted requests for sexual intercourse or sexual contact;
- offensive sexual gestures;
- indecent exposure;
- intrusive questions about a person's sexual activities or body;
- unnecessary familiarity, such as deliberately brushing up against a person;
- insults or taunts based on the sex of the individual;
- making promises or threats in relation to sexual favours;
- conduct of a sexual nature; and
- sexually explicit telephone calls, emails, SMS text messages, or social media posts and messages.

Some of these forms of sexual harassment are also criminal behaviour and may be treated as a criminal offence. These include:

- sexual assault;
- physically touching a person;
- indecent exposure; and
- obscene phone calls or emails/letters.

Governance

- 5.3. The Board has established a sexual assault and sexual harassment taskforce with responsibility for the implementation of strategies to prevent and respond to sexual assault and sexual harassment within the ACT and its Affiliated Colleges. The taskforce also monitors the outcomes of strategies and recommends improvements. The Board is to appoint as members of the taskforce one or more representatives from each of the ACT Office, staff of Affiliated Colleges and ACT students. The responsibilities of the taskforce are established in the *Sexual Assault and Sexual Harassment Taskforce Terms of Reference*. The taskforce reports to the Board through the Dean.
- 5.4. The risk of the occurrence of sexual assault and sexual harassment is to be regularly assessed and treated appropriately under the risk management framework established by ACT, which is described in the *Risk Management Policy* and *Risk Management Procedure*.



- 5.5. When courses and units are reviewed there is to be consideration of the integration of material relevant to sexual assault and sexual harassment with a view to ACT graduates being both aware and informed of issues related to, and skilled in supporting those who experience, sexual assault or sexual harassment. The Course Learning Outcomes and Unit Learning Outcomes will guide where such integration is appropriate.

Provision of a safe environment

- 5.6. An ACT approved sexual assault and sexual harassment awareness program will be delivered to all ACT students during orientation. Participation and engagement with the program will be a condition of maintaining enrolment in the ACT.

Any exceptions to the requirement for a student to participate in an awareness program must be approved by the ACT Registrar. An example of a situation where an exception may be made is where participation in the awareness program could have a traumatising impact on a person who has previously experienced sexual assault or sexual harassment.

- 5.7. The sexual assault and sexual harassment awareness program must be made available to students of all study modes, though the delivery method can be adapted to those different modes. For students studying in a Language other than English (LOTE), the awareness program must be culturally sensitive and offered in the course delivery language.
- 5.8. ACT employees, contractors and students will be advised upon employment, engagement or enrolment that ACT does not tolerate sexual assault and sexual harassment. For employees and students, this would normally occur during induction or orientation.
- 5.9. Awareness programs will be informed by reliable and up-to-date research and scholarship and will be reviewed regularly by the sexual assault and sexual harassment taskforce. The review will consider the feedback provided by participants in the programs.
- 5.10. A sexual assault and sexual harassment awareness program will be included in the induction process for all ACT staff. Staff will be required to read this Policy and the Procedure in their induction. The ACT must use reasonable endeavours to ensure that contractors engaged by ACT are provided with a copy of this Policy and the Procedure.
- 5.11. An ACT approved sexual assault and sexual harassment awareness program will be a component of the induction process for all staff of Affiliated Colleges approved to teach ACT courses as well as for all staff of Affiliated Colleges that interact substantially with students as part of their role. This Policy must be read



as part of this induction. Each Affiliated College must use reasonable endeavours to ensure that contractors engaged by the Affiliated College are provided with a copy of this Policy and the Procedure.

- 5.12. The ACT Office and each Affiliated College must have at least one SASH Contact Officer.
- 5.13. Training will be provided to SASH Contact Officers regarding the reporting of sexual assault and sexual harassment and responding to those who make a report. Training will also be provided to student advocates recognised by Affiliated Colleges. The training will be provided by the ACT or through an Affiliated College training program approved by the ACT.
- 5.14. A supervisor or mentor will be identified for all SASH Contact Officers. The primary role of the supervisor or mentor will be to offer support through debriefing and where appropriate to guide decision making. The confidentiality of reported information and the protection of the privacy of persons involved in incidents will be maintained in this relationship. For Affiliated College SASH Contact Officers, this mentor may be provided by the ACT if requested by the Affiliated College.
- 5.15. In accordance with the relevant WHS legislation, WHS inspections must be regularly performed by ACT and each Affiliated College to ensure there is a safe and secure environment for students and staff. These inspections will include considerations that may be relevant to the prevention of sexual assault and sexual harassment and will take place at all campuses where ACT courses are delivered and at all accommodation owned by an Affiliated College that is available to ACT students.

Reporting incidents

- 5.16. Any person who believes that a person to whom this Policy applies has engaged in sexual assault or sexual harassment may report the matter to a SASH Contact Officer, the Dean or by an ACT sexual assault and sexual harassment reporting mechanism described in the Procedure and on the ACT website.
- 5.17. The SASH Contact Officers are available to offer advice to students and staff on the process of reporting sexual assault or sexual harassment.
- 5.18. Reports of incidents at an Affiliated College should be made to the relevant SASH Contact Officer of the Affiliated College. Students may seek support in reporting an incident from an Affiliated College recognised student advocate, or another support person of the student's choice.
- 5.19. Where a reported incident may involve a criminal offence (such as a sexual assault), the person receiving the report will inform the person making the report



about making a formal report to the police and offer support to do so. The decision to report or to not report to police will be respected and persons will not be pressured to report or not report the incident to the police.

- 5.20. Incidents may be reported to both the police and the ACT (to a SASH Contact Office, the Dean or by an ACT sexual assault and sexual harassment reporting mechanism described in the Procedure and on the ACT website), or to one but not the other.
- 5.21. The ACT will use reasonable endeavours to maintain the confidentiality of reported information and protect the privacy of persons involved in incidents. Confidentiality and protection of privacy will be maintained subject to any applicable mandatory reporting obligations, such as for incidents involving a child and for reports of serious crime.
- 5.22. Those to whom this Policy applies are also expected to maintain the confidentiality of information held by them about a reported incident and protect the privacy of persons involved in that incident. It is appropriate for persons involved in incidents to speak in confidence with a trusted friend or family member, pastor or counsellor for the sake of personal support and maintaining wellbeing.
- 5.23. There are no time restrictions on when an incident may be reported, though the capacity for ACT to investigate and take action may be limited in certain cases such as where persons involved are no longer students, staff or officers.
- 5.24. Incidents may be reported which occurred in a context outside the ACT's control and influence and where the ACT is unable to investigate or take action against a perpetrator. In such cases, the response of the ACT and the Affiliated College to the report may be limited to offering appropriate support to the reporter of the incident.
- 5.25. Reports may be made anonymously, although the ACT's capacity to investigate may be limited in such cases.
- 5.26. An incident may be reported to ACT on behalf of another person, but the ACT will generally only investigate the report where the person who was sexually assaulted or sexually harassed directly provides to the ACT confirmation of what happened.

Response to incidents

- 5.27. The wishes of the person who has experienced sexual assault or sexual harassment will be taken into account in the investigation and the response to reported sexual assault or sexual harassment. A person may report an incident without wanting it to be investigated. However, the ACT or an Affiliated College



- may still be required to investigate.
- 5.28. When a report is made to the relevant SASH Contact Officer of an Affiliated College of an incident at that Affiliated College, the Affiliated College Principal, in consultation with the Dean, is to determine the response, such as an investigation of the incident, and must advise the Dean of the steps being taken. The ACT may provide legal assistance to an Affiliated College where appropriate. Where a report is made about an Affiliated College Principal, the Chair of the Board or Council of the Affiliated College, or their delegate, is to determine the response, and must advise the Dean of the response. If an Affiliated College is unable to address the reported incident, the matter is to be transferred to the Dean for a response.
- 5.29. The response of an Affiliated College must be in accordance with this Policy and the Procedure. The ACT will normally await the outcome of any investigation conducted by the Affiliated College and only investigate further if it receives an appeal from a student or if the Affiliated College is unable to address the reported incident and transfers it to the Dean for response.
- 5.30. When a report is made to which clause 5.28 does not apply, the Dean is to determine the response, such as an investigation of the incident, and must advise the Board Chair of the steps being taken. If an investigation is required, it will be conducted under the direction of the Dean who is to be the final decision maker. Where a report is made about the Dean, or the Dean is unable to direct the investigation or be the final decision maker for any reason (such as a conflict of interest), the Board Chair or their delegate is to direct the investigation and is to be the final decision maker.
- 5.31. Principles of procedural fairness must be applied in the investigation of all allegations of sexual assault and sexual harassment. These principles include:
- lack of bias, actual or perceived, on the part of the investigator and decision-maker;
 - evidence-based decision making, considering only relevant facts;
 - provision of detailed allegations to the alleged perpetrator; and
 - an opportunity for the alleged perpetrator to respond.
- 5.32. All reports of sexual assault and sexual harassment are to be investigated and responded to in a timely manner.
- 5.33. An official record must be kept of all investigations, including formal statements, key evidence and determinations. Confidentiality and privacy will be maintained and protected in accordance with clause 5.21.



- 5.34. The ACT will not investigate an incident that is being investigated and/or prosecuted by the police or is currently before a court of law. In such cases, the ACT may take precautionary actions and may gather information available to support that end. However, no investigation or disciplinary action will be taken until the police have discontinued their investigation or the outcome of any prosecution is known.
- 5.35. Precautionary action is not a form of disciplinary action, and will be determined based on the interests and wellbeing of the person reporting the incident, the alleged perpetrator and others potentially impacted by the circumstances.
- 5.36. The ACT cannot determine if a criminal offence has occurred but will investigate reports of sexual assault and sexual harassment to ensure appropriate disciplinary action is taken and to support the safety and wellbeing of students and staff.
- 5.37. Decisions about a reported incident will be based on the balance of probability following due consideration of all available evidence.

Disciplinary action

- 5.38. The ACT will take proportionate and fitting disciplinary action against all students, staff and officers found to have committed sexual assault or sexual harassment following an investigation by the ACT or an Affiliated College, or a decision of a court of law.
- 5.39. The disciplinary action to be taken will take into account all relevant circumstances including the nature of the incident and the severity of the impact on those affected. Possible disciplinary action ranges from compulsory participation in an awareness program to expulsion (in the case of a student), termination of employment (in the case of staff) or removal from a position (in the case of an officer).
- 5.40. Where academic staff of an Affiliated College are found to have committed sexual assault or sexual harassment, the ACT may remove or suspend their approval to teach students.
- 5.41. Any disciplinary action taken by the ACT is in addition to disciplinary action taken by the Affiliated College.
- 5.42. The ACT will take disciplinary action against any student, member of staff or officer who threatens, intimidates, harasses or does or threatens any other harm to a person in response to them reporting sexual assault and sexual harassment, or to prevent the reporting of sexual assault and sexual harassment. Protections under the *Whistleblower Policy* may apply where an incident involves illegal activity or misconduct and where the person reporting the incident is a member of the staff of the ACT or an Affiliated College or a member of the Board.



- 5.43. Appeals against any decision concerning disciplinary action will follow the relevant grievance policy for students or staff. Students may appeal a decision made by an Affiliated College to the Dean in accordance with the relevant grievance policy for students.

Support services

- 5.44. The ACT will ensure information about appropriate support services is available to students and ACT staff. The ACT will offer referral to appropriate support services to students and staff impacted by a report of sexual assault or sexual harassment.
- 5.45. The range of support services will, where possible, include counsellors with specialist training in responding to sexual assault and sexual harassment, be available to students from all study locations, include 24-hour support services and be culturally and linguistic appropriate for student cohorts.
- 5.46. The SASH Contact Officers will offer assistance with referral to support services.
- 5.47. The ACT website will include details of relevant support services and details for the SASH Contact Officers of Affiliated Colleges.
- 5.48. Persons involved in a reported incident will be referred to personal wellbeing support, support with study if applicable and sources of legal advice.

Quality management

- 5.49. The ACT will maintain records of all reports of sexual assault and sexual harassment. The Board will review de-identified summary data of reports of sexual assault and sexual harassment and oversee the implementation of responses to any concerns identified in reviewing the data.
- 5.50. Recurring incidents of sexual assault and sexual harassment within the ACT Office or at an Affiliated College which suggest an unsafe environment will be reported to TEQSA as a material change.
- 5.51. The ACT will assess the effectiveness of the implementation of this Policy and the Procedure through periodic surveys of students and benchmarking of outcomes against the sector.
- 5.52. An independent external review of this Policy and the Procedure and systems related to sexual assault and sexual harassment will be conducted every five years and be reported to the Board. The review must be performed by a person with expertise in the area. An action plan will be developed to address identified concerns and the Board will oversee the implementation of the plan.



- 5.53. The ACT will monitor the compliance of Affiliated Colleges with this Policy and the Procedure.
- 5.54. ACT may request from Affiliated Colleges evidence of WHS inspections which address security and safety issues that may be relevant to the prevention of sexual assault and sexual harassment.
- 5.55. Reviews will be performed of private services contracted by the ACT or Affiliated Colleges to offer support to students and staff who have experienced sexual assault or sexual harassment.

6. RELATED DOCUMENTS AND LEGISLATION

Australian Human Rights Commission, *Change the Course: National Report on Sexual Assault and Sexual Harassment at Australian Universities* (2017),
<https://www.humanrights.gov.au/our-work/sex-discrimination/publications/change-course-national-report-sexual-assault-and-sexual>

[Privacy Act 1988](#)

Respect. Now. Always campaign, Universities Australia, (12 February 2016),
<https://www.universitiesaustralia.edu.au/project/respect-now-always/>

[Sex Discrimination Act 1984](#)

TEQSA Good Practice Note: Prevention and Response to Sexual Assault and Sexual Harassment

<https://www.teqsa.gov.au/latest-news/publications/good-practice-note-preventing-and-responding-sexual-assault-and-sexual>

TEQSA Guidance Note: Grievance and Complaint Handling,
<http://www.teqsa.gov.au/hesf-2015-specific-guidance-notes>

TEQSA Guidance Note: Wellbeing and Safety, <https://www.teqsa.gov.au/latest-news/publications/guidance-note-wellbeing-and-safety>

TEQSA Material Change Notification Policy,
<http://www.teqsa.gov.au/sites/default/files/Material-Change-Notification-Policy-3-5.pdf>

TEQSA (2019) Report to the Minister for Education: Higher education sector response to the issue of sexual assault and sexual harassment: An overview of Australian higher education provider responses to the issue of sexual assault and sexual harassment.
<https://www.teqsa.gov.au/student-wellbeing>

7. VERSION HISTORY



Version	Approved by	Approval Date	Effective Date	Changes made
1	Board of Directors	12 April 2021	12 April 2021	New policy

Any hard copy of this electronic document may not be current as the ACT regularly reviews its policies. The latest version can be found online at www.actheology.edu.au/documents