

STUDENT SEXUAL MISCONDUCT POLICY 2018

The Vice-Chancellor and Principal as delegate of the Senate of the University of Sydney, adopts the following policy.

Dated: 1 August 2018

Dated Amended: 20 February 2019

1 August 2019 (administrative amendments)

11 November 2019 (commencing 1 January 2020)

29 September 2020 (commencing 6 October 2020)

25 March 2020 (administrative amendments)

15 March 2022

12 May 2023 (administrative amendments)

Signature:

Position: Vice-Chancellor and Principal

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1 Name of Policy

This is the Student Sexual Misconduct Policy 2018.

2 Commencement

This policy commences on 1 August 2018.

3 Policy is binding

Except to the extent that a contrary intention is expressed, this policy binds the University, students, staff members, affiliates and visitors.

4 Statement of intent

This policy:

- (d) prohibits sexual misconduct and sexual harassment by members of the University community;
- (e) protects the safety and welfare of students and former students disclosing or complaining about sexual misconduct or sexual harassment;
- (f) sets out the meaning of sexual misconduct and sexual harassment;
- (g) explains the difference between disclosures and complaints of sexual misconduct and sexual harassment;
- (h) explains the difference between complaints to the University and reports to the NSW Police;
- (i) encourages safe active bystander intervention;
- (j) sets out the principles applicable to disclosures and complaints of sexual misconduct and sexual harassment; and
- (k) supports the University's values of inclusion and diversity, and respect and integrity.

Note: See the University's [Strategy 2032](#)

5 Application

- (1) This policy applies to disclosures by students and former students of sexual misconduct and sexual harassment, including:
 - (a) anonymous disclosures;
 - (b) disclosures about recent or historical events; and
 - (c) disclosures about University related and non-University related conduct.
 - (2) This policy applies to complaints by students and former students of University related sexual misconduct and sexual harassment including, but not limited to, conduct by:
 - (a) current students; and
 - (b) current staff members or affiliates.
- Note:** For an explanation of the difference between disclosures and complaints of sexual misconduct and sexual harassment, see clauses 12 and 13.
- Note:** Current and former staff and affiliates who wish to make a disclosure or complaint of sexual misconduct or sexual harassment should refer to the [Staff Sexual Misconduct Policy 2020](#) and the [Staff Sexual Misconduct Response Procedures 2020](#).
- (3) This policy applies to disclosures and complaints by all students and former students, irrespective of gender, gender identity, intersex status, sexual orientation, race, religion, cultural background or disability.
 - (4) Clauses 7, 9, 10, 11, 14, 15, 16, 17, 18, 19, 21 and 22 of this policy apply to complaints by any person of University related sexual misconduct or sexual harassment by a current student.
 - (5) For the avoidance of doubt, the rights and obligations of students under this policy are in addition to the rights and obligations set out in the [Student Charter 2020](#) and the [Bullying, Harassment and Discrimination Prevention Policy 2015](#).

6 Definitions

In this policy:

active bystander intervention means seeing and recognising a potentially harmful situation and choosing to respond in a safe way that could prevent or stop the harm from happening or continuing.



affiliate	<p>has the meaning given in the Staff and Affiliates Code of Conduct 2021.</p> <p>At the date of this policy, this is:</p> <p>means a person appointed or engaged by the University to perform duties or functions on its behalf, including but not limited to:</p> <ul style="list-style-type: none">• an honorary title holder engaged under the <i>Honorary Titles Policy 2013</i>;• a consultant or contractor to the University; and• an office holder in a University entity, a member of any University committee, board or foundation. <p>An affiliate is not an employee of the University.</p>
Apprehended Violence Order	<p>means an ADVO (Apprehended Domestic Violence Order) or an APVO (Apprehended Personal Violence Order) made by a court.</p> <p>Note: An ADVO protects a person where the parties live together. An APVO protects a person in other circumstances, including where the parties are both students.</p>
complainant	<p>means any person who makes a complaint of sexual misconduct or sexual harassment in accordance with this policy.</p>
complaint	<p>means a complaint of sexual misconduct or sexual harassment by a student or former student who wants the University to investigate or to take specific action in response to the incident, made in accordance with clause 13.</p>
disclosure	<p>means a disclosure of sexual misconduct or sexual harassment by a student or former student who does not want the University to investigate or to take any specific action in response to the incident, made in accordance with clause 12.</p>
fraternisation	<p>has the meaning given in clause 7A, and applies only to that clause.</p>
non-disclosure agreement	<p>means any agreement, or any clause in any agreement, that prohibits the parties to the agreement from disclosing confidential information.</p>
Residential College	<p>means one or more of:</p> <ul style="list-style-type: none">• Mandelbaum House;• Sancta Sophia College;• St Andrew's College;• St John's College;• St Paul's College;• Wesley College;• Women's College.
respondent	<p>means a person whose conduct is the subject of a complaint of sexual misconduct or sexual harassment.</p>



Safer Communities Office	means the specialist staff within the portfolio of the Deputy Vice-Chancellor (Education), who provide support and guidance to current and former students, staff and affiliates affected by sexual misconduct and sexual harassment.
staff or staff member	means an employee of the University, including a casual employee.
student	means any person who is considered to be a student for the purposes of the Coursework Policy 2021 or the Continuing and Extra-Curricular Education Policy 2022 , and includes any of: <ul style="list-style-type: none">• award students (i.e. studying for a formal qualification);• exchange students;• study abroad students;• continuing education students;• other non-award students; and• students of the Centre for English Teaching (CET).
Student Affairs Officer	means a specialist member of staff within the Student Affairs Unit.
Student Affairs Unit	means the specialist staff within the office of the Deputy Vice-Chancellor (Education), who assist with the resolution of student complaints and reports of student misconduct in accordance with University policies and procedures.
student caseworker	means a designated employee of the Students' Representative Council (SRC) or the Sydney University Postgraduate Representative Association (SUPRA).
student club or student society	means a student association established under the terms of clause 8 of the Student Associations Policy 2020 .
student representative organisation	has the meaning given in the Student Associations Policy 2020 . As at the date of this policy, this is: means a student association listed in subclause 7(1) of [that] policy. These are: <ul style="list-style-type: none">• Sydney University Postgraduate Representative Association (SUPRA);• Sydney University Sport and Fitness Limited (SUSF);• University of Sydney Students' Representative Council (SRC); and• University of Sydney Union (USU).
transactional sex	has the meaning given in clause 7A and applies only to that clause.

University lands has the meaning given in the [University of Sydney \(Campus Access\) Rule 2009](#).

As at the date of this policy, this includes:

any land or roads occupied or used in connection with the University, including the whole or any part of any building or structure and any land or roads occupied or used in connection with the whole or part of any building or structure.

University related conduct means any conduct that is connected to the University, including conduct that:

- refers or relates to the University, its activities, or its staff, affiliates or students in their status as staff, affiliates or students of the University;
- occurs on, or in connection with, University lands or other property owned by the University;
- occurs at, or in connection with, a Residential College;
- occurs at or in connection with University owned or affiliated student accommodation;
- occurs using, or is facilitated by, University ICT resources or other University equipment;
- occurs during, or relates to, the performance of duties for the University;
- occurs during, or in connection to, any University related function or event (whether sanctioned or organised by the University or not) or when representing the University in any capacity;
- occurs during any event run by or affiliated with student representative organisations, student clubs or student societies (whether sanctioned or organised by the University or not);
- occurs during students' clinical, practicum, internship or work experience placements; or
- occurs while a University of Sydney student is participating in an overseas exchange, study abroad or other approved program.

visitor means an academic or other guest, invitee or visitor to University lands or to a class, function or event sanctioned or organised by the University.

7 Sexual misconduct and sexual harassment are prohibited

- (1) Students, staff, affiliates and visitors must not engage in sexual misconduct towards or sexually harass any other person.
- (2) Behaviour that is intimidating, abusive, disrespectful or threatening, including sexual misconduct and sexual harassment, is not acceptable and will not be tolerated.

7A Transactional sex and fraternisation are prohibited in some circumstances

- (1) Without limiting the effect of any other policy, students must not:
 - (a) engage in transactional sex; or
 - (b) engage in fraternisation;while carrying out duties or activities directly related to the delivery of programs or research funded by the Commonwealth Department of Foreign Affairs and Trade (DFAT), including the Australia Awards Scholarship Program and the New Colombo Plan Mobility Program.
- (2) For the purposes of this clause:
 - (a) transactional sex means the exchange of money, employment, goods or services for sex, including sexual favours; and
 - (b) fraternisation means any relationship that involves, or appears to involve, partiality, preferential treatment or improper use of rank or position, including:
 - (i) voluntary sexual behaviour;
 - (ii) a close relationship involving public displays of affection or private intimacy; and
 - (iii) the public expression of intimate relations.

8 Emergency and ongoing assistance and support

- (1) Students and former students who have experienced sexual misconduct or sexual harassment are encouraged to seek assistance and support from a trusted member of the University's staff.

Note: For information on supporting students who have experienced sexual misconduct or sexual harassment, see clause 7 of the [Student Sexual Misconduct Response Procedures 2018](#).
- (2) Contact details for emergency assistance for students and former students who have experienced sexual misconduct or sexual harassment are set out in Schedule 1.
- (3) Contact details for ongoing support and assistance for students and former students who have experienced sexual misconduct or sexual harassment are set out in Schedule 2.
- (4) Contact details for support and assistance for students who are accused of sexual misconduct or sexual harassment are set out in Schedule 3.

9 Meaning of sexual misconduct

- (1) The term sexual misconduct is used in this policy to cover a range of unacceptable sexual and physical behaviours, which are in breach of clauses 7 or 7A.

Note: Sexual misconduct can be experienced by people of all ages, genders and sexualities, within or outside a relationship. Sexual misconduct is an abuse of power, and is never the fault of the person who does not consent to the sexual behaviour.



- (2) For the purposes of this policy, sexual misconduct means a breach of clause 7A or any sexual act that a person does not consent to, including:
- (a) **rape (also called sexual assault)** – the forced penetration of the vagina or anus of any person with any part of the body of another person (including their fingers), or with any object, without the first person’s consent;
 - (b) **unwanted oral sex** – insertion of the penis into the mouth of another person, or use of the tongue or lips on the vagina, penis, scrotum or anus of another person, without their consent;
 - (c) **sexual touching** – kissing or touching a person’s body in a sexual manner, without their consent. This includes unwanted touching of a person’s breast, bottom or genitals;
 - (d) **sexual acts** – doing an act of a sexual nature with or towards another person without their consent, or making another person do an unwanted act of a sexual nature. This includes:
 - (i) a person showing another person their genitals (‘flashing’);
 - (ii) a person sending another person an unwanted still or moving image of their own or someone else’s genitals;
 - (iii) making a person show another person their breasts, bottom or genitals;
 - (iv) masturbating in front of another person;
 - (v) pretending to masturbate in front of another person;
 - (e) **voyeurism** - for the purpose of obtaining sexual arousal or sexual gratification, observing a person who is:
 - (i) in a state of undress;
 - (ii) using the toilet, showering or bathing; or
 - (iii) engaged in a sexual act;without their consent; and
 - (f) **recording or distributing an intimate image** of another person without their consent, whether in person or by electronic, digital or other means, including a still or moving image of:
 - (i) a person’s breast, bottom or genitals, whether bare or covered by underwear;
 - (ii) a person in a state of undress;
 - (iii) a person using the toilet, showering or bathing;
 - (iv) a person engaged in a sexual act.
- (3) For the purposes of this policy, a person will be considered to have engaged in sexual misconduct towards another person if:
- (a) the other person did not consent to the first person’s actions; and
 - (b) the first person:
 - (i) knew that the other person did not consent;
 - (ii) was reckless as to whether the other person consented; or
 - (iii) should reasonably have known, having regard to all the circumstances, that the other person did not consent.



- (4) For the purposes of this policy, attempting or threatening to engage in any of the above conduct may also constitute sexual misconduct.

Note: Stalking or intimidating another person with the intention of causing them to fear physical or mental harm is also a criminal offence. See the [Crimes \(Domestic and Personal Violence\) Act 2007](#) and the [Bullying, Harassment and Discrimination Prevention Policy 2015](#).

10 Meaning of consent

- (1) For the purposes of this policy, a person consents to a sexual act if they freely and voluntarily consent to the sexual act.
- (2) For the purposes of this policy, a person is not able to freely and voluntarily consent to a sexual act when:
- (a) they are:
 - (i) asleep or unconscious;
 - (ii) significantly intoxicated or affected by drugs;
 - (iii) intimidated, coerced or threatened, including when they are afraid of harm to themselves or someone else;
 - (iv) unclear about the identity of the person performing the act;
 - (v) tricked into doing something they do not want to do;
 - (vi) detained or held against their will;
 - (vii) under 16 years of age; or
 - (viii) under 18 years of age and the person performing the act is a staff member of the University; or
 - (b) the person is pressured to engage in the sexual act by another person, who is in a position of power or authority over them.
- (3) Students, staff, affiliates and visitors must make sure that consent to a sexual act is clear and obvious. The fact that a person does not say 'no' to, or does not physically resist, a sexual act does not of itself mean that they consent to it.
- (4) A person is free to withdraw their consent at any time prior to or during a sexual act, for any reason.

11 Meaning of sexual harassment

- (1) Sexual harassment occurs if a person:
- (a) makes an unwelcome sexual advance, or an unwelcome request for sexual favours, to the person harassed; or
 - (b) engages in other unwelcome conduct of a sexual nature in relation to the person harassed;

in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated the possibility that the person harassed would be offended, humiliated or intimidated.

Note: See also clause 12 of the [Bullying, Harassment and Discrimination Prevention Policy 2015](#).



- (2) Sexual harassment includes:
 - (a) unwelcome touching, hugging or kissing;
 - (b) inappropriate staring or leering;
 - (c) sexual gestures;
 - (d) sexually suggestive comments or jokes;
 - (e) displaying, sending or requesting sexually explicit pictures or posters;
 - (f) giving sexually explicit gifts;
 - (g) making or distributing a sexually explicit audio recording or photo-shopped image of another person;
 - (h) repeated or inappropriate invitations to go out or 'hook up';
 - (i) intrusive questions about a person's private life or physical appearance;
 - (j) requests or pressure for sexual intercourse, or other sexual acts.
- (3) Sexual harassment can occur through email, text, messaging, social media posts and other forms of electronic communication.
- (4) Acts of sexual harassment may also constitute sexual misconduct.

12 Disclosures of sexual misconduct and sexual harassment by students and former students

- (1) Students and former students who have experienced sexual misconduct or sexual harassment have a right to decide whether they want to disclose the incident to the University, or not.
- (2) A student or former student can make a disclosure of any incident of sexual misconduct or sexual harassment to the University's Safer Communities Office:
 - (a) online anytime on the University's ['Sexual Misconduct' web page](#);
 - (b) by email at safer-communities.officer@sydney.edu.au or
 - (c) by calling + 61 2 8627 6808 or **1800 SYD HLP (1800 793 457)** from 9am to 5pm, Monday to Friday.

Note: Students and former students who prefer to make a disclosure in person can call **1800 SYD HLP (1800 793 457)** to make an appointment.
- (3) Students and former students can elect to make disclosures anonymously.
- (4) The University is committed to supporting students and former students who disclose sexual misconduct or sexual harassment. Details of inclusive and non-discriminatory support services for students and former students are set out in Schedule 2.
- (5) Students and former students should make a disclosure (rather than a complaint) of sexual misconduct or sexual harassment if they do not want the University to investigate or to take any specific action in response to the incident.
- (6) Students and former students who choose to make a disclosure of sexual misconduct or sexual harassment may later decide to make a complaint to the University about the same incident. The University will provide guidance about how to make a complaint.

- (7) The University will treat all disclosures confidentially, and:
 - (a) will not investigate a disclosure unless:
 - (i) there appears to be an imminent risk to the health or safety of the student or another person; or
 - (ii) one or more other people name the same perpetrator in a separate incident disclosure and the University is concerned that there may be a risk to the health or safety of other persons; and
 - (b) will inform the student before commencing an investigation into a disclosure.
- (8) The University will otherwise use information contained in disclosures on a de-identified basis to identify trends and to develop targeted responses to sexual misconduct and sexual harassment in the University community.

13 Complaints of sexual misconduct and sexual harassment by students and former students

- (1) Students and former students who have experienced sexual misconduct or sexual harassment have a right to decide whether they want to make a complaint to the University, or not.
- (2) A student or former student who has experienced sexual misconduct or sexual harassment can make a complaint to the University's Safer Communities Office:
 - (a) online anytime on the University's '[Sexual Misconduct](#)' web page;
 - (b) by email at safer-communities.officer@sydney.edu.au or
 - (c) by calling + 61 2 8627 6808 or **1800 SYD HLP (1800 793 457)** from 9am to 5pm, Monday to Friday.

Note: Students who prefer to make a complaint in person can call **1800 SYD HLP (1800 793 457)** to make an appointment.
- (3) A person cannot make a complaint of sexual misconduct or sexual harassment on behalf of a student or former student, except for Safer Communities Office staff members, Student Affairs Officers and student caseworkers.

Note: Staff members may assist a student or former student to make a complaint. See clause 6(4) of the [Student Sexual Misconduct Response Procedures 2018](#).
- (4) Students and former students who have experienced sexual misconduct or sexual harassment should make a complaint (rather than a disclosure) if:
 - (a) they want the University to investigate or to take specific action; and
 - (b) the complaint is about University related conduct, including conduct by:
 - (i) other students; or
 - (ii) current staff members or affiliates.
- (5) Students and former students do not have to specify what action they want the University to take in order to make a complaint. If students and former students choose to specify what action they want the University to take, the University may decide to take that action or some other action, as appropriate.

- (6) A former student who has experienced sexual misconduct or sexual harassment can make a complaint if:
- (d) the complaint is about University related conduct; and
 - (e) the respondent is a current student, staff member or affiliate of the University.
- (7) The University is committed to supporting students and former students who complain about sexual misconduct or sexual harassment. Details of inclusive and non-discriminatory support services for students are set out in Schedule 2.
- (8) In most circumstances, a student or former student wishing to make a complaint of sexual misconduct or sexual harassment will need to provide their name. The University will not act on anonymous complaints of sexual misconduct or sexual harassment unless:
- (d) it is not necessary for the respondent to be aware of the identity of the complainant in order to properly respond to the complaint; or
 - (e) there is independent documentary or other evidence supporting the complaint and the allegation can be tested fairly.
- (9) The University is unable to act on complaints from complainants who decline to provide information about the respondent. In such cases, the complaint will be treated as a disclosure.
- (10) The University will handle complaints by students and former students of sexual misconduct and sexual harassment in accordance with the [Student Sexual Misconduct Response Procedures 2018](#), the [Staff Sexual Misconduct Response Procedures 2020](#) and the [Student Complaints Procedures 2015](#), as appropriate.
- (11) If a student or former student makes a complaint of sexual misconduct or sexual harassment by a visitor or other person over whom the University has no jurisdiction, the University may seek assistance from another organisation or refer the complaint to an external agency for resolution.
- Note:** Other organisations may include a student's home institution, or clinical, practicum, internship or work experience provider. The University may refer complaints of sexual harassment to the [NSW Anti-Discrimination Board](#) or the [Australian Human Rights Commission](#).
- (12) If a student or former student makes a complaint of sexual misconduct or sexual harassment occurring at or in connection with a Residential College, or University owned or affiliated student accommodation, the University may liaise with or seek assistance from the Residential College or accommodation provider to resolve the complaint.

14 Confidentiality

- (1) Subject to this clause and subclause 15(7), the University will keep confidential all information relating to a disclosure or complaint of sexual misconduct or sexual harassment, unless the student or former student consents to disclosure of part or all of the information for a specified purpose.
- (2) The University may disclose information about a disclosure or complaint of sexual misconduct or sexual harassment if it is required to do so in accordance with any legal or regulatory requirement.



- (3) Where a disclosure or complaint of sexual misconduct or sexual harassment relates to an incident that is alleged to have occurred at or in connection with:
- (a) a Residential College;
 - (b) a facility or event run by or affiliated with a student representative organisation, student club or student society;
- the University may disclose to the Residential College, relevant student representative organisation, student club or student society, as necessary, information about:
- (c) interim measures taken against a student in accordance with clause 19; and
 - (d) the outcome of an investigation conducted by or on behalf of the University in accordance with the [Student Sexual Misconduct Response Procedures 2018](#) or an internal disciplinary process.
- (4) Subject to this clause, complainants and respondents must keep confidential:
- (a) the identity of the complainant, the respondent and participants in the resolution or investigation of a complaint;
 - (b) the information provided or collected during the resolution or investigation of a complaint;
 - (c) the fact that a complaint has been made;
 - (d) any interim measures taken under clause 18; and
 - (e) any report, outcome or determination of a complaint.
- (5) Complainants and respondents may disclose the information in subclause (4) in order to obtain support or advice from:
- (a) their immediate family members;
 - (b) a qualified counsellor or psychologist;
 - (c) their student caseworker or lawyer;
 - (d) the Police;
 - (e) the NSW Anti-Discrimination Board or Australian Human Rights Commission.
- (6) A complainant whose complaint has been wholly or partially substantiated:
- (a) by a court; or
 - (b) by the University, following an investigation conducted by or on behalf of the University in accordance with an internal disciplinary process;
- may disclose:
- (c) the identity of the complainant and the respondent;
 - (d) any information provided by the complainant during the investigation that relates to those parts of the complaint that were substantiated; and
 - (e) the outcome of the complaint, as it relates to those parts of the complaint that were substantiated.
- (7) The University will not ask complainants to sign a non-disclosure agreement.
- (8) A breach of confidentiality may result in disciplinary action including, where the person is a student, action under the [University of Sydney \(Student Discipline\) Rule 2016](#).

15 Reports to the NSW Police

- (1) The University supports the right of students and former students who have experienced sexual misconduct or sexual harassment to decide whether they want to report the incident to the NSW Police, or not.

Note: Students and former students may also elect to contact the [NSW Anti-Discrimination Board](#) or the [Australian Human Rights Commission](#) to make a complaint of sexual harassment under anti-discrimination legislation.

- (2) A student or former student may decide to make a disclosure or complaint of sexual misconduct or sexual harassment to the University, but not report the incident to the Police. Alternatively, they may decide to report sexual misconduct or sexual harassment to the Police, but not to make a disclosure or complaint to the University.
- (3) A person's decision to make a report to the Police will not necessarily preclude the University from investigating or taking action in response to sexual misconduct or sexual harassment. However, any internal University process may have to be suspended pending completion of the criminal process.
- (4) When deciding whether to suspend an internal University process pending completion of a criminal process, the University will consult the Police and the complainant and will consider:

- (a) the potential for the internal process to impede or contaminate the criminal process;
- (b) the potential for the criminal process to impede or contaminate the internal process; and
- (c) whether investigating or responding to the incident has the potential to impact adversely on the rights of either or both the complainant or the respondent.

Note: The standard of proof to be satisfied in University investigations of sexual misconduct and sexual harassment is 'on the balance of probabilities', which requires satisfaction on the evidence that the matter found to have occurred is more likely to have occurred than not. The University will take into account the nature and seriousness of the alleged conduct when deciding whether the standard of proof is met. The standard of proof used in criminal investigations and trials is 'beyond reasonable doubt', which is a higher evidentiary standard of proof.

- (5) The University is required to report information about the commission of a 'serious indictable offence' to the Police in accordance with sections 316 and 316A of the [Crimes Act 1900 \(NSW\)](#).

Note: A 'serious indictable offence' is an offence that is punishable by imprisonment for five years or more, such as conduct referred to in this policy as rape (also called sexual assault) or sexual touching.

- (6) If a student or former student decides not to report an incident of sexual misconduct to the Police, the University will use its best efforts to protect the confidentiality of information relating to their disclosure or complaint, while meeting its obligations under the [Crimes Act 1900 \(NSW\)](#).
- (7) In some limited circumstances, the University may need to report an incident of sexual misconduct to the Police against a person's wishes, to ensure their safety or the safety of other members of the University community, or to meet its legal obligations.
- (8) The University will inform the student or former student before reporting an incident of sexual misconduct to the Police.

16 Active bystander intervention

- (1) The University encourages and values reasonable safe active bystander intervention by members of the University community to prevent or stop sexual misconduct and sexual harassment from occurring or continuing.
- (2) The steps involved in safe active bystander intervention are:
 - (a) noticing the situation – paying attention to what is going on nearby;
 - (b) deciding if it is a problem – investigating whether someone might need help, and checking with people around if unsure;
 - (c) accepting responsibility to take action – not assuming someone else will do something;
 - (d) making a plan to step in – indirectly or directly confronting the issue, without being aggressive or putting oneself or others in danger.

17 No victimisation

- (1) A person must not victimise or otherwise subject another person to detrimental action as a consequence of that person:
 - (a) making a disclosure or a complaint of sexual misconduct or sexual harassment;
 - (a) providing information about a disclosure or a complaint of sexual misconduct or sexual harassment;
 - (b) supporting a person who has made a disclosure or complaint of sexual misconduct or sexual harassment; or
 - (c) engaging in reasonable safe active bystander intervention.
- (2) A breach of this clause may result in disciplinary action including, where the person is a student, action under the [University of Sydney \(Student Discipline\) Rule 2016](#).

18 Opportunity to be heard

- (1) Complaints of sexual misconduct and sexual harassment will be resolved sensitively, fairly, confidentially and with a minimum of disruption, while following the principles of procedural fairness.
- (2) Complainants and respondents will have a reasonable opportunity to state or respond to a complaint orally and in writing, and to provide any documents relevant to the complaint.
- (3) Complainants and respondents may be accompanied to any meeting by a support person, if they wish.
- (4) At no time will the complainant and respondent be required to meet with or to participate in any activity with one another, unless they have both given their prior informed consent.

19 Interim measures

- (1) Interim measures should not be interpreted as anticipating or revealing the outcome of any University or criminal investigation process.
- (2) In order to minimise the potential for harm to any person, the Registrar may take interim measures against a student in response to:
 - (d) a complaint of sexual misconduct or sexual harassment against the student, pending:
 - (i) resolution of the complaint;
 - (ii) investigation of the complaint; or
 - (iii) the conclusion of an internal disciplinary process; or
 - (e) a disclosure or complaint of sexual misconduct or sexual harassment against the student, pending criminal investigation and hearing; or
 - (f) an Apprehended Violence Order, whether interim or final.
- (3) As an interim measure the Registrar may:
 - (a) suspend a student from entering specified parts of the University's lands;
 - (b) restrict a student's access to particular classes;
 - (c) restrict a student's access to specified University buildings, facilities or accommodation; or
 - (d) prohibit a student from speaking to or approaching another person (including by social media, email, letter or through a third party);for such period, and on such terms, as the Registrar considers necessary.
- (4) Interim measures must be:
 - (d) taken on a case-by-case basis;
 - (e) set for a fixed period of time; and
 - (f) reasonable and proportionate;having regard to the seriousness and circumstances of the alleged conduct.
- (5) Interim measures may be taken summarily, and the Registrar:
 - (d) is not required to provide a hearing to the student before making a decision; and
 - (e) may inform themselves in relation to any matter in any manner that they think fit.
- (6) Interim measures once taken will continue to apply until they:
 - (d) are revoked or varied by the Registrar; or
 - (e) expire in accordance with their terms.
- (7) The Registrar must notify the student of the imposition of interim measures within 24 hours of doing so, and provide the information specified in the [Student Sexual Misconduct Response Procedures 2018](#).
- (8) A student who is the subject of interim measures may seek an internal review of those measures by application to the Student Affairs Unit, in the manner specified in the [Student Sexual Misconduct Response Procedures 2018](#).

- (9) Nothing in this policy or the [Student Sexual Misconduct Response Procedures 2018](#) affects the power of:
- (d) the Registrar to suspend a student in accordance with the [University of Sydney \(Student Discipline\) Rule 2016](#); or
 - (e) a University representative to issue a Termination of License Notice in accordance with the [University of Sydney \(Campus Access\) Rule 2009](#).

20 Vexatious complaints

- (1) A student or former student must not make a vexatious or malicious complaint of sexual misconduct or sexual harassment.
- (2) For the purposes of this policy, a complaint will be considered vexatious or malicious if the student or former student makes it:
 - (a) knowing it to be false; and
 - (b) for the primary purpose of damaging the University or the person against whom the complaint is made.
- (3) Making such a complaint may result in disciplinary action including, where the person is a student, action under the [University of Sydney \(Student Discipline\) Rule 2016](#).

20A Educational measures to prevent sexual misconduct and sexual harassment

- (1) Subject to clause 20A(2), the Deputy Vice-Chancellor (Education):
 - (a) may establish educational programs about sexual misconduct and sexual harassment; and
 - (b) stipulate the conditions on which such education must be completed.
- (2) In establishing the programs the Deputy Vice-Chancellor (Education) will consult with student organisations and the Associate Deans (Student Life) in each faculty or University school.

21 Breach of this policy

- (1) The University may take disciplinary action against any person who is knowingly involved in a breach of this policy.
- (2) Where the person is a student, this may include disciplinary action under the [University of Sydney \(Student Discipline\) Rule 2016](#).
- (3) Where the person is staff member, this may include disciplinary action under the [University of Sydney Enterprise Agreement 2018-2021](#) or any successor or replacement agreement.
- (4) Where the person is an affiliate, this may include the revocation of a title and any accompanying privileges under the [Honorary Titles Policy 2013](#).

22 Recordkeeping and reporting

- (1) The University will:
 - (a) keep appropriate records of all disclosures and complaints of sexual misconduct and sexual harassment in a secure location;
 - (b) keep appropriate records of its communications with the Residential Colleges and University owned or affiliated student accommodation about disclosures and complaints of sexual misconduct and sexual harassment occurring at, or in connection with, them; and
 - (c) subject to the confidentiality requirements specified in clause 14(1), allow reasonable access by students and former students to information about themselves.

Note: See the [Recordkeeping Policy 2017](#) and the [Recordkeeping Manual](#).

- (2) The University will collect, store and use de-identified information about disclosures and complaints by students and former students to identify trends and to develop targeted responses to sexual misconduct and sexual harassment in the University community.
- (3) Access to information relating to a disclosure or complaint of sexual misconduct or sexual harassment will be restricted to University staff who have a need to access and use the information in order to carry out their responsibilities under this policy or the *Student Sexual Misconduct Response Procedures 2018*.

Note: See the University's [Privacy Policy 2017](#) and the [Privacy Procedures 2018](#).

- (4) The University will publish annually a de-identified report on the records kept in accordance with subclause (1). The report will be prepared in such a way as to ensure that no specific disclosure or complaint of sexual misconduct or sexual harassment can be identified.

23 Review

This policy will be reviewed within one year of the date of commencement.

NOTES

Student Sexual Misconduct Policy 2018

Date adopted:	1 August 2018
Date commenced:	1 August 2018
Date amended:	11 February 2019
	1 August 2019 (administrative amendments)
	11 November 2019 (commencing 1 January 2020)
	29 September 2020 (commencing 6 October 2020)
	25 March 2021 (administrative amendments)
	15 March 2022

12 May 2023 (administrative amendments)

Administrator: Deputy Vice-Chancellor (Education)

Review date: 1 August 2022

Rescinded documents:

Related documents: *Education Services for Overseas Students Act 2000 (Cth)*

Higher Education Support Act (Cth)

Anti-Discrimination Act 1977 (NSW)

Crimes Act 1900 (NSW)

Privacy and Personal Protection Information Act 1988 (NSW)

State Records Act 1988 (NSW)

Sex Discrimination Act 1984 (Cth)

National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students (Cth)

University of Sydney (Student Discipline) Rule 2016

Bullying, Harassment and Discrimination Prevention Policy 2015

Resolution of Complaints Policy 2015

Student Complaints Procedures 2015

Student Sexual Misconduct Response Procedures 2018

AMENDMENT HISTORY

Provision	Amendment	Commencing
5(4)	New clause inserted	11 February 2019
7(1)	'students' replaced by 'any other person'	11 February 2019
8(1); 8(2)	Addition of 'and former students'	11 February 2019
9(2)(c)	'indecent assault' replaced by 'sexual touching'	11 February 2019
9(2)(d)	'acts of indecency' replaced by 'sexual acts'	11 February 2019
9(4)	Addition of 'attempting or'	11 February 2019
12	Addition of 'by students and former students' to heading	11 February 2019

Provision	Amendment	Commencing
12(1); (12)(2) Note: 12(4); 12(5); 12(6);	Delete 'students' and replace with 'students and former students'	11 February 2019
12(7)(ii)	Replace 'students' with 'people'	11 February 2019
13(1); 13(4); 13(5);13(8); 13(10); 13(11); 13(12)	Addition of 'former student/s'	11 February 2019
14(1)	Addition of 'or former student'	11 February 2019
15(1); 15(2)	Addition of "and former students'	11 February 2019
15(3)	Replace 'student's' with 'person's'	11 February 2019
15(5)	Addition of 'And 316A'	11 February 2019
15(5) Note	Remove 'indecent assault' and replace with 'sexual touching'	11 February 2019
15(6)	Insert 'or former student' and replace 'the student' with 'their'	11 February 2019
15(7)	Clause re-written	11 February 2019
15(8)	Insert 'or former student'	11 February 2019
17(1)(b)	Replace 'student' with 'person'	11 February 2019
18(4)	Replace 'other' with 'another'	11 February 2019
19(3)(d)	Replace 'student' with 'person (including by social media, email, letter or through a third party'	11 February 2019
20(1); 20(2)	Insert 'or former student'	11 February 2019
21(3)	Remove 'or affiliate'	11 February 2019
21(4)	New clause added	11 February 2019
22(1)(c)	Insert 'and former students'	11 February 2019
22(2)	Insert 'by students and former students'	11 February 2019
Schedule 2	Update counselling services to clarify current students only; excludes CCE and CET students	11 February 2019
10(2);	'For the purposes of this policy' inserted	20 February 2019
10(2)(a)(viii)	New clause relating to students under 18 years of age	20 February 2019
Title	Change 'Sexual Assault and Sexual Harassment' to 'Sexual Misconduct'	1 August 2019



Provision	Amendment	Commencing
Throughout	Change 'sexual assault' to 'sexual misconduct'	1 August 2019
7(1)	Change 'sexually assault' to 'engage in sexual misconduct towards'	1 August 2019
9(1) Note	Change 'sexual assault can happen to' to 'sexual misconduct can be experienced by'. Delete 'The definition of sexual assault used in this policy is broader than the criminal law definition.'	1 August 2019
9(2)(a)	Add '(also called sexual assault)'. Delete 'a term commonly used in the community to describe'	1 August 2019
9(3)	Change 'sexually assaulted' to 'engaged in sexual misconduct towards'	1 August 2019
15(5) Note	Add '(also called sexual assault)'	1 August 2019
16(1)	Add 'reasonable'	1 August 2019
17(1)(c)	Add 'reasonable'	1 August 2019
20A	New clause added regarding educational measures to prevent sexual misconduct and sexual harassment	1 January 2020
Throughout	Change 'Student Liaison Officers' to 'Safer Communities Office' and update contact details	6 October 2020
Throughout	Replace URLs with 'on the University's Sexual Misconduct Webpage' and update link	6 October 2020
5	New note relating to disclosures and complaints by staff and affiliates.	6 October 2020
6	Add definitions of 'fraternisation', 'Safer Communities Office' and 'transactional sex'. Replace 'Registrar' with 'Deputy Vice-Chancellor (Education)' in definition of 'Student Affairs Unit'.	6 October 2020
7A	New clause prohibiting transactional sex and fraternisation in connection with DFAT funded programs and research.	6 October 2020
9(1)	Replace 'criminal offences' with 'in breach of clauses 7 or 7A' in the description of 'sexual misconduct'.	6 October 2020
9(2)	Add 'a breach of clause 7A' to examples of meaning of 'sexual misconduct'.	6 October 2020
12(2)(b); 13(2)(b); Schedule 2	Reporting email address updated to safer-communities.officer@sydney.edu.au	25 March 2021

Provision	Amendment	Commencing
Schedule 2 (2) and (3)	Link to Sydney University Postgraduate Representative Association updated to www.supra.net.au	25 March 2021
Schedule 3	Link to Sydney University Postgraduate Representative Association updated to www.supra.net.au	25 March 2021
6	Added definitions of: 'affiliate', 'non-disclosure agreement', 'student club or student society', and 'student representative organisation'.	15 March 2022
6	Deleted 'SUSF'.	15 March 2022
6	Added 'representative' and 'student' to the 8 th dot point in the definition of 'University related conduct'.	15 March 2022
14(1)	Added 'subject to this clause'.	15 March 2022
14(2)	New subclause.	15 March 2022
14(3)	New subclause.	15 March 2022
14(6)	New subclause.	15 March 2022
14(7)	New subclause.	15 March 2022
19(2)(e)	Added 'a disclosure or complaint of sexual misconduct or sexual harassment against the student, pending'.	15 March 2022
Schedule 1	Updated hyperlinks.	15 March 2022
Schedule 2	Added information about the After Hours Wellbeing Support Line.	15 March 2022
Schedule 3	Added information about the Safer Communities Office and the After Hours Mental Wellbeing Support Line.	15 March 2022
4(k) note	replace 'Strategic Plan 2016 – 2020' with 'Strategy 2032'	16 May 2023
5(5)	replace 'Code of Conduct for Students' with 'Student Charter 2020'	16 May 2023
6	replace 'Coursework Policy 2014' with 'Coursework Policy 2021'; replace 'Continuing and Extra-Curricular Policy 2017' with 'Continuing and Extra-Curricular Policy 2022'	16 May 2023

SCHEDULE 1 – Emergency contacts

- (1) In an emergency, students should contact **emergency services** by dialling triple zero (**000**).
- (9) Students who feel unsafe on campus or are concerned for someone else's safety can also contact **Campus Security** on **9351 3333**, 24 hours a day.
- (10) Students and former students who have experienced sexual misconduct can contact:
 - (a) **NSW Rape Crisis Service 1800 424 017** or www.rape-dvservices.org.au, 24 hours a day, online counselling service available;
 - (b) **1800RESPECT 1800 737 732** National Sexual Assault, Domestic Family Violence Counselling Service or online via www.1800respect.org.au, 24 hours a day;
 - (c) **Lifeline 13 11 14** or www.lifeline.org.au (online chat or video also available 7pm - midnight);
 - (d) **Mental Health Line (NSW) 1800 011 511** (24 hours);
 - (e) **Suicide Callback Service 1300 659 467** or www.suicidecallbackservice.org.au (online chat or video also available 24 hours);
 - (f) **Blueknot Helpline 1300 657 380** (Available Mon-Sun, 9am-5pm AEST, including public holidays) or email on helpline@blueknot.org.au;
 - (g) **NSW Health Sexual Assault Services** <https://www.health.nsw.gov.au/parvan/sexualassault/Pages/health-sas-services.aspx>
 - (h) **Royal Prince Alfred (RPA) Hospital Sexual Assault Service** on **9515 9040** (Monday to Friday) or **9515 6111** (after hours). Counselling and medical services are available for anyone who has been sexually assaulted. Campus Security can arrange transport to RPA.
 - (i) **Westmead Hospital Sexual Assault Service** on **9845 7940** (daytime) or **9881 8000** (after hours).
 - (j) **Blacktown/Mount Druitt Sexual Assault Service, Blacktown Community Health Centre** on **9881 8700** (daytime) or **9881 8000** (after hours).

SCHEDULE 2 – University support for students and former students who have experienced sexual misconduct or sexual harassment

- (1) A student or former student who has experienced sexual misconduct or sexual harassment can make a disclosure or a complaint to the University's Safer Communities Office on the University's '[Sexual Misconduct](#)' [web page](#), by email at safer-communities.officer@sydney.edu.au, or by calling 8627 6808 or **1800 SYD HLP (1800 793 457)** from 9am to 5pm, Monday to Friday.
- (2) Students who have experienced sexual misconduct or sexual harassment have access to a range of University [support services and assistance](#), including:
- **Safer Communities Office** – contact **8627 6808, 1800 SYD HLP (1800 793 457)** (option 2, then option 1), or email safer-communities.officer@sydney.edu.au, 8.30am-5.30pm, Monday to Friday;
 - **After Hours Mental Wellbeing support line - 1300 474 065** (accessible within Australia) or **Text 0488 884 429** (for sms chat option), after 5pm Mon-Fri, 24 hours on Saturdays, Sundays and public holidays including University close-down periods;
 - **on campus emergency accommodation** - contact Student Accommodation Services on **9351 3322**, 9am to 5pm, Monday to Friday. For after hours emergency accommodation, contact Campus Security on **9351 3333**;
 - **security services** - contact Campus Security on **9351 3333**, 24 hours a day;
 - **health services** (for current students only) - contact the University Health Service on **9351 3484**, 8:30am to 5pm, Monday to Friday;
 - **counselling services** (for current students, other than students of CCE and CET, only) – contact Counselling and Psychological Services (CAPS) on **8627 8433**, 9am to 5pm, Monday to Friday;
 - **disability support** - contact Disability Services on **8627 7422**, 9am-5pm, Monday to Friday;
 - **academic support** - [special consideration](#) for examinations and assessments; and
 - **student representative associations** – undergraduate students: contact the [Student Representative Council](#) (SRC) on **9660 5222**, 9am-5pm, Monday to Friday; postgraduate students: contact www.supra.net.au (SUPRA) on **9351 3715**, 9am to 5pm (closed 12-1pm), Monday to Friday.
- (3) Former students who have experienced sexual misconduct or sexual harassment have access to a range of University [support services and assistance](#), which may include:
- **Safer Communities Office** – contact **8627 6808, 1800 SYD HLP (1800 793 457)** (option 2, then option 1), or email safer-communities.officer@sydney.edu.au, 8.30am-5.30pm, Monday to Friday;
 - **security services** - contact Campus Security on **9351 3333**, 24 hours a day;
 - **student representative associations** – undergraduate students: contact the [Student Representative Council](#) (SRC) on **9660 5222**, 9am-5pm, Monday to Friday; postgraduate students - contact www.supra.net.au (SUPRA) on **9351 3715**, 9am to 5pm (closed 12-1pm), Monday to Friday.

SCHEDULE 3 – University support for students who have been accused of sexual misconduct or sexual harassment

Students who are accused of sexual misconduct or sexual harassment have access to a range of University support services and assistance, including:

- **Safer Communities Office** – contact **8627 6808, 1800 SYD HLP (1800 793 457)** (option 2, then option 1), or email safer-communities.officer@sydney.edu.au, 8.30am-5.30pm, Monday to Friday;
- **health services** - contact the University Health Service on **9351 3484**, 8:30am to 5pm, Monday to Friday;
- **After Hours Mental Wellbeing support line - 1300 474 065** (accessible within Australia) or **Text 0488 884 429** (for sms chat option), after 5pm Mon-Fri, 24 hours on Saturdays, Sundays and public holidays including University close-down periods;
- **counselling services** - (for current students, other than students of CCE and CET, only) contact Counselling and Psychological Services (CAPS) on **8627 8433**, 9am to 5pm, Monday to Friday;
- **on campus emergency accommodation** - contact Student Accommodation Services on **9351 3322**, 9am to 5pm, Monday to Friday. For after hours emergency accommodation, contact Campus Security on **9351 3333**;
- **disability support** - contact Disability Services on **8627 7422**, 9am-5pm, Monday to Friday
- **academic support** - [special consideration](#) for examinations and assessments; and
- **student representative associations** – undergraduate students: contact the [Student Representative Council](#) (SRC) on **9660 5222**, 9am-5pm, Monday to Friday; postgraduate students: contact www.supra.net.au (SUPRA) on **9351 3715**, 9am to 5pm (closed 12-1pm), Monday to Friday.