

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

1. Purpose of procedures

These procedures will describe:

- (a) how the University will implement measures to prevent sexual assault and sexual harassment as well as assault, harassment, discrimination and bullying;
- (b) how students make disclosures and reports of sexual assault and sexual harassment as well as assault, harassment, discrimination and bullying;
- (c) how the University will respond to disclosures and reports of sexual assault and sexual harassment as well as assault, harassment, discrimination and bullying using a trauma informed approach; and
- (d) how the University will support students impacted by sexual assault and sexual harassment as well as assault, harassment, discrimination and bullying.

2. Scope and application

2.1 These procedures apply to all students and former students of the University community to whom acceptable behaviour standards apply.

2.2 The University will provide support and guidance in accessing relevant support services even if the disclosed or reported behaviour does not have the requisite connection to the University.

2.3 Where a student is also staff member and wishes to make a disclosure or report, they may choose to make this report and/or seek support from Safer Communities or People and Culture.

2.4 Sexual assault, sexual harassment, harassment, discrimination, bullying or assault, when proven constitute as general misconduct and will be pursued according to the University's student misconduct procedures.

2.5 Decisions made by the University under these procedures will be in accordance with the *Human Rights Act 2019* (Qld).

3. Definitions

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

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

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

Some of the more common types of bullying behaviours are:

- Physical –damaging, stealing belongings, threats of violence, practical jokes or initiations, denying access to information, supervision, consultation or resources to the detriment of the student;
- Verbal/written - name-calling, offensive language, unjustified criticism or complaints, insulting someone about an attribute, quality or personal characteristic;
- Social – deliberately excluding someone from study-related activities, spreading misinformation or malicious rumours, sharing information that will have a harmful effect on the other person, damaging a person's social reputation or social acceptance; and

APPROVAL AUTHORITY

Vice-Chancellor and President

RESPONSIBLE EXECUTIVE MEMBER

Pro Vice-Chancellor (Students)

DESIGNATED OFFICER

Pro Vice-Chancellor (Students)

FIRST APPROVED

29 March 2021

LAST AMENDED

27 February 2023

REVIEW DATE

27 April 2026

STATUS

Active

- Cyberbullying – any form of bullying behaviour that occurs online or via a mobile device. It can be verbal or written, and can include threats of violence as well as images, videos and/or audio.

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

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

- under the age of 16 years;
- asleep or unconscious;
- intoxicated or affected by drugs;
- intimidated, coerced or threatened;
- unclear about the identity of the person performing the act; and
- deceived or mistaken about the nature of the activity.

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

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

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

- Sex
- Relationship status
- Pregnancy
- Parental Status
- Breastfeeding
- Age
- Race
- Impairment
- Religious belief or religious activity
- Political belief or activity;
- Trade Union activity
- Lawful sexual activity
- Gender Identity
- Sexuality
- Family responsibilities
- Association with, or relation to, a person identified on the basis of any of the above attributes.

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

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

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

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

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

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

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

- inappropriate touching without consent;
- forcing someone to perform a sexual act;
- forcing someone to see a sexual act including the use of electronic media; and
- sexual behaviour to which a person has not agreed.

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

- inappropriate jokes or comments with sexual connotations;
- the display of offensive material;
- stares and leers or offensive hand or body gestures;
- comments and questions about another person's sexual conduct and/or private relationships that are intrusive;
- persistent unwelcome invitations;
- requests for sexual favours;
- offensive written, telephone or electronic mail or any other electronic means of communication, including pictures or videos of body parts or sexualised activities;
- unnecessary close physical proximity including persistently following a person;
- unwelcome physical contact such as brushing against or touching a person;
- denigrating comments regarding a person's gender or sexual preference; or
- negative behaviours, e.g., intimidation or exclusions related to the sex or gender diversity of the recipient.

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

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

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

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

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

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

4. Making a disclosure

4.1 Students who wish to make a disclosure of sexual assault or sexual harassment, as well as, discrimination, bullying, harassment or assault can:

- (a) call Safe USC on 07 5430 1168 or use the Safe Zone app if they feel there is an immediate threat to their safety. Alternatively, they can call 000 and ask to speak to the police;
- (b) speak to a trusted member of University staff who can refer students to support services;
- (c) contact Safer Communities for confidential support and advice on 07 5430 1226;
- (d) contact other specialist sexual assault support services by calling 1800 RESPECT (1800 737 732);
- (e) lodge a personal grievance according to the Student Grievances – Procedures (this is known as Step 1 within the procedures);
- (f) contact the Australian Human Rights Commission; or
- (g) contact the Queensland Human Rights Commission.

4.2 Students may choose to make anonymous or third-party disclosures through the University's SASH portal, however, the University may be limited in its ability to investigate or respond to these disclosures.

4.3 The University will make every effort to ensure disclosures are met with trauma informed responses including upholding confidentiality and ensuring disclosing student does not need to repeat their story to multiple staff members to receive support.

4.4 When a student makes a disclosure to a member of staff, the staff member should follow the guidelines for responding to disclosures of sexual assault and harassment. The staff member will advise the student that Safer Communities are able to provide confidential support, including academic adjustments, referral to specialist services, and options about support and reporting. The staff members will also ask the student if they have any objections to the disclosure being referred to Safer Communities for follow up. If the student agrees, the staff member refers the student to Safer Communities. If the student does not consent to the Safer Communities referral, the staff member will ensure that they are provided with support options as outlined in the guidelines.

5. Making a report

5.1 Students who are experiencing sexual assault or sexual harassment, as well as discrimination bullying, harassment or assault and who believe there is an immediate threat to their safety are advised to call SafeUSC on 07 5430 1168 or the Police.

5.2 Students who wish to make a report about sexual assault, sexual harassment, discrimination, bullying, harassment or assault should do so through Safer Communities (this is known as Step 2 of the Student Grievances – Procedures). Safer Communities will:

- (a) provide confidential trauma informed support to the student, including supportive and protective measures; and
- (b) assist the student to detail the incident and refer the matter to the Pro Vice-Chancellor (Students).

5.3 The University encourages a person reporting to make their report within 12 months of the incident to assist with gathering evidence for any investigation. However, the University will accept all disclosures and reports irrespective of when the incident occurred.

5.4 Students may report incidents sexual assault or sexual harassment, as well as, discrimination, bullying, harassment or assault directly to the police or request support from Safer Communities to make that report. Further, students may report incidents of sexual assault or sexual harassment to specialist sexual assault support services. Specialist services can be contacted by calling 1800 RESPECT (1800 737 732).

5.5 Students may also lodge an external complaint of sexual assault or sexual harassment to:

- (a) the Australian Human Rights Commission;
- (b) the Queensland Human Rights Commission.

6. Responding to reports made by students

6.1 When a report is made by a student (also known as Step 2 in the Student Grievances – Procedures), the University will take timely and appropriate action to investigate allegations through the following policies and procedures:

- (a) in the case of a student making an allegation against a member of staff or other member of the University community – the Student Grievance Resolution - Governing Policy, Student Grievances –Procedures, Staff Code of Conduct – Governing Policy and Guidelines for the Resolution of Complaints - Staff and
- (b) in the case of a student making an allegation against another student The Pro Vice-Chancellor (Students) will respond to reports according to the Student Grievances – Procedures, Student Conduct – Governing Policy and the Student Misconduct - Procedures. Further information regarding the steps involved can be found in How allegations of misconduct are managed at USC.

6.2 Resolving reports is done in good faith. A report found to be vexatious may be dismissed by the University and may be misconduct under the Student Conduct – Governing Policy.

7. Supportive Measures

7.1 Supportive measures are available to all students who make a disclosure or report irrespective of whether:

- (a) a report is made to the University or to police or to an external body;
- (b) the student participates in any investigation;
- (c) the incident was connected to the University; and
- (d) the University, police or external body conduct the investigation of the incident.

7.2 The University will provide supportive measures for students who make disclosures or reports as well as witnesses or those who have supported another person in making a complaint, as appropriate.

7.3 The University will also provide appropriate support to respondents to allegations of sexual assault, sexual harassment, discrimination, bullying, harassment or assault.

7.4 Supportive measures may include:

- (a) academic support services and accommodations, including the ability to reschedule exams and assignments, transfer course sections, or withdraw from courses without penalty;
- (b) on-campus counselling services and/or assistance in connecting to community-based counselling services;
- (c) assistance in connecting to community-based medical services and/or specialist support services; and
- (d) assistance with referral to community supports or police to make a formal report or obtain personal protective orders.

8. Protective Measures

8.1 Protective measures are available to all students who make a disclosure, irrespective of whether:

- (a) a report is made to the University or to police or an external body;
- (b) the student participates in any investigation; or
- (c) the University, police or external body conduct the investigation of the incident.

8.2 The University may implement protective measures which are required for safety reasons. Protective measure can only incorporate measures that are within the University's jurisdiction. Implementation of protective measures should not suggest that the University has determined the merits of a report.

8.3 Protective measures may include:

- (a) limiting an individual's access to certain University facilities or activities;
- (b) facilitating behavioural agreements between the parties;
- (c) changes in transportation arrangements, such as parking in a different location;
- (d) provision of on-campus escorts;
- (e) academic schedule modifications (typically to separate the reporting student and the respondent); and
- (f) work schedule or job assignment modifications.

9. Victimisation

9.1 Victimisation of any person involved in a complaint is illegal. It may constitute misconduct under the Student Conduct – Governing Policy or Staff Code of Conduct – Governing Policy.

10. Responding to reports pending criminal investigation

10.1 Students may choose to report incidents to the police. Safer Communities will provide support to the student to make a report, including facilitating contact with the University's Police Liaison Officers (with the student's consent) and will ensure the student has psychological and academic support.

10.2 Students will be advised that an investigation by the University about potential student misconduct is a separate process from a criminal investigation which is done by the police.

10.3 If a report is being, or is likely to be, considered under a criminal process, the University should actively seek advice from the police about whether a parallel misconduct investigation would adversely affect any resulting criminal process.

10.4 If the University receives no formal advice from the police about whether it is appropriate for the University to proceed with an internal misconduct investigation, the University will consider whether to conduct an investigation, taking into account the reporting student's wishes and the safety of the university community.

10.5 The University will continue to provide any necessary supportive and/or protective measures throughout this process.

10.6 The University may take action under its Student Conduct – Governing Policy or Staff Code of Conduct – Governing Policy at the same time as a criminal process is underway, if the allegation of misconduct is based upon evidence which is different from that being considered under the criminal process, or the action does not compromise the criminal process.

11. University prevention and safety strategies

11.1 The University will use range of prevention and safety strategies that aim to ensure campuses are free from all forms of sexual assault, sexual harassment discrimination, bullying, harassment or assault. These strategies will be determined, implemented and reviewed by the SASH Taskforce.

12. Recordkeeping and reporting

12.1 Information received as part of a report or disclosure will be accessible by the person who provided the information and kept separate from the enrolment, employment and other University records of the complainant, or any witness.

12.2 De-identified reporting of sexual assault or sexual harassment reports, in terms of number and types of instances, and actions/outcomes, will be collated annually, and provided to the University Executive and any approved external agencies.

13. Confidentiality

13.1 The confidentiality of a student who makes a disclosure or a report will be respected. Reports and disclosures will not be referred to Police or other external agency without the consent of the student making that disclosure or report, except when the University is compelled to disclose details, to protect any person from risk to life, health or safety, or where a student is under 18 years of age.

13.2 As per information security set out in the Information and Records Management – Procedures, allegations of sexual assault, sexual harassment, discrimination, bullying, harassment or assault and information about student misconduct and associated records are classified as 'restricted', which means the information is intended for use only by various named individuals.

13.3 All information associated with reports must be treated as confidential and not released to any third party or external agency unless required by law or the student expressly consents to its release in writing.

END

RELATED DOCUMENTS

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

LINKED DOCUMENTS

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

SUPERSEDED DOCUMENTS

- Anti-Discrimination and Freedom from Bullying and Harassment (Students) - Procedures

RELATED LEGISLATION / STANDARDS

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