


| POLICY | |  |
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| Ref. to Legislative Frameworks: HESF2015: Standard 2.3 / 6.2.1 / 7.3.3 SRTO2015: Standard 7 National Code 2018: Standard 6.9 | Sexual Assault and Sexual Harassment Policy | |
| Version: 2.4 | Approved by: Chief Executive Officer | Issued on: 18/02/2020 Review by: 18/02/2022 |

Revision History

| Current Version | Description of Change | Policy Developer | Effective Date |
|-----------------|--|-------------------------|----------------|
| 2.2 | Incorporating the “Guidelines for universities responding to reports of sexual assault and sexual harassment” published by Universities Australia on 24/7/2018 | Chief Executive Officer | 01/08/2018 |
| 2.3 | Incorporating the recommendation offered by TEQSA to use gender-neutral pronouns | Chief Executive Officer | 21/05/2019 |
| 2.4 | Incorporating recommendations for Improvement by external consultant (Claire Collins) as part of TEQSA SASH review | Chief Executive Officer | 18/2/2020 |

PURPOSE

Academies Australasia Polytechnic (AAPoly) takes a zero-tolerance approach to sexual assault and sexual harassment and other forms of harmful misconduct. As part of the commitment to providing a safe environment for students and staff, this policy provides a framework to prevent and respond to reports of sexual assault or sexual harassment in a just, compassionate and effective manner.

POLICY STATEMENT

AAPoly does not tolerate sexual assault or sexual harassment in any form. Sexual assault and sexual harassment are unlawful, and every member of the AAPoly community has a responsibility to ensure that they do not occur.

SCOPE

The policy is applicable to staff, students and affiliates of AAPoly on campus or whilst carrying out functions in connection with AAPoly, including while on excursions or on work placements or internships.

DEFINITIONS

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| Sexual assault | <p>When a person is forced, coerced or tricked into sexual acts against their will or without their consent.</p> <p>Sexual assault can include but, is not limited to, the following:</p> <ul style="list-style-type: none">• rape e.g. being forced to have vaginal, anal or oral sex including digital penetration.• unwanted touching e.g. pinching, patting, embracing, rubbing, groping, flicking, kissing, fondling, being touched on the breasts, bottom, legs etc.• obscene gestures e.g. simulating masturbation in front of a person• voyeurism e.g. being watched doing intimate things without permission.• pressuring for dates or demand for sex e.g. invitations that turn into threats or not taking 'no' for an answer• indecent exposure e.g. someone showing private parts of their body or 'flashing' their genitals• being forced to watch or participate in pornography e.g. taking a photo without permission, forcing someone to be on video, making someone watch a pornographic movie. |
| Sexual harassment | <p>Any unwelcome sexual advance, request for sexual favours or conduct of a sexual nature in relation to the person harassed in circumstances where a reasonable person would have anticipated the possibility that the person harassed would be offended, humiliated or intimidated (Federal Sex Discrimination Act 1984).</p> <p>Sexual harassment can take various forms and can involve conduct such as:</p> <ul style="list-style-type: none">• unwelcome touching, hugging or kissing• staring or leering• suggestive comments or jokes• sexually explicit pictures, screen savers or posters• unwanted invitations to go out on dates or requests for sex• intrusive questions about a someone's private life or body• unnecessary familiarity, such as deliberately brushing up against someone• insults or taunts of a sexual nature• sexually explicit emails, SMS messages or social media• accessing sexually explicit internet sites• inappropriate advances on social networking sites |

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| Suspension | The cancellation of a student's enrolment at AAPoly for a specified period after which the student may recommence their enrolment |
| Exclusion | Denial of access to a student's enrolled course and to future enrolment in AAPoly courses |
| Consent | Free and voluntary agreement. Factors violating consent include: <ul style="list-style-type: none"> • lack of capacity to consent, including because a person is asleep or unconscious, or so affected by alcohol or other drugs as to be unable to consent; • the actual use of force, threatened use of force against the complainant or another person, which need not involve physical violence or physical harm; • unlawful detention; • mistaken identity and mistakes as to the nature of the act (including mistakes generated by the fraud or deceit of the accused); and • any position of authority or power, intimidation or coercive conduct. (Australian Commonwealth Legislation) |
| First Responder | The first person to respond to a disclosure or report of sexual assault or harassment |
| Active Bystander | Someone who witnesses and intervenes in a situation involving harassment, bullying, abuse or other harmful/ inappropriate behaviour, with the intention to disrupt, or 'call out' the behaviour and prevent the behaviour from continuing |

POLICY PRINCIPLES AND GUIDELINES

- a) Care and consideration for a person's wellbeing is the primary focus when responding to any disclosure, when seeking a resolution and when addressing any formal complaint of sexual assault or sexual harassment.
- b) Students have the responsibility to not sexually harass or abuse others and must discontinue behaviour demonstrated to have offended, humiliated or intimidated another person.
- c) Students and staff are encouraged to intervene safely when they encounter instances of unacceptable behaviour. As an active bystander students and staff can:
 - i. notice events and interpret the event as requiring intervention;
 - ii. intervene in the situation safely which may involve directly challenging or confronting perpetrators or potential perpetrators, distracting either party or getting help from others.
- d) A person who experiences sexual assault or harassment may choose to disclose the incident(s), which involves sharing information about the incident(s) to seek support and/or resources.
- e) A person who experiences sexual assault or harassment may choose to make a formal internal complaint of the incident(s) and seek a response action from AAPoly.
- f) A person who experiences sexual assault or harassment is entitled to report their experience to the police or make a formal complaint with the Victorian Equal Opportunity and Human Rights Commission and will be advised of these options.
- g) Disclosures of sexual harassment or sexual assault will be managed in a compassionate manner and any case under formal resolution will be managed promptly, fairly and confidentially, ensuring due process to all parties.

- h) Formal complaints of misconduct will proceed in accordance with AAPoly's Sexual Assault and Sexual Harassment Procedure and the [Student Non-Academic Misconduct Policy](#) and [Procedure](#).
- i) Attention will be given to minimizing the number of times and number of people to whom one is required to recount their experience/s of assault or harassment.
- j) A person who makes a formal complaint has the right to have their chosen supporter or representative involved in the process and the option to stop the process at any time. All students involved are entitled to regular and timely communication about the progress of the investigation and its outcome.
- k) An alleged perpetrator has the right to know the details of a report made against them and has a right to respond and have a supporter or representative chosen by them present when they respond to the allegations made.
- l) No one will be treated unfairly as a result of a complaint of sexual assault or sexual harassment. Immediate disciplinary action will be taken against anyone who victimises or retaliates against someone who has made a complaint or against whom a complaint is made.
- m) Any student found to have sexually assaulted or harassed another person will be subject to disciplinary action that may include an apology, counseling, suspension or exclusion depending on the severity and persistence of the behaviour.
- n) Any staff found to have sexually assaulted or harassed another person will be subject to disciplinary action described in the Staff Handbook.
- o) Students who experience sexual assault or harassment are entitled to academic special consideration and to support with navigating the special consideration process.
- p) Individual disclosures and reports of sexual assault or sexual harassment will be collected and stored confidentially, accessible only by key staff responsible for the student's safety.
- q) De-identified data on disclosures and formal reports of sexual assault and sexual harassment will be collected to determine the effectiveness of AAPoly's response procedures for continuous improvement processes.
- r) Where students experience sexual assault or sexual harassment on placement, the local procedures at the site of the placement will apply, in addition to AAPoly's policy and procedure.

RESPONSIBILITIES

- a) The Chief Executive Officer is responsible for the development and maintenance of the Sexual Assault and Sexual Harassment Policy and Procedure and for communicating this to all staff including the Student Counsellors and Senior Lecturer, Academic Quality and Student Discipline, for implementation through the pursuant procedure.
- b) The Academic Dean/Faculty Head, VET, are responsible for communicating any revisions or amendments to Sexual Assault and Sexual Harassment Policy and

Procedure to the relevant academic staff members.

- c) The Academic Dean/Faculty Head, VET are responsible for communicating the Sexual Assault and Sexual Harassment Policy and Procedure to students during the orientation program and on the student portal of the LMS.
- d) The Human Resource Manager is responsible for communicating the Sexual Assault and Sexual Harassment Policy and Procedure to new staff during induction, in addition to the Staff Handbook.
- e) All members of AAPoly are responsible for complying with the Sexual Assault and Sexual Harassment Policy and Procedure, behaving appropriately and promoting a climate of respect.
- f) AAPoly staff is responsible for treating all complaints seriously and ensuring the matter is managed in accordance with AAPoly's Sexual Assault and Sexual Harassment Policy and Procedure.
- g) All members of AAPoly must take action where inappropriate behaviour is witnessed or known to have occurred, in accordance with AAPoly's Sexual Assault and Sexual Harassment Policy and Procedure and must protect the rights of the target of assault or harassment to their full control over decisions concerning medical, legal, reporting and support options.
- h) All AAPoly staff involved in disclosures are responsible for maintaining confidentiality concerning any report, complaint or investigation.
- i) Student counsellors and staff members who are first responders are responsible for communicating the support and reporting options available to students, including the option to report to the police, and where appropriate, are responsible for helping students navigate AAPoly's processes for reporting and seeking academic special consideration.
- j) The Work-Integrated Learning Coordinator is responsible for ensuring that students on placement have access to the policies and practices at that site.
- k) The Chief Executive Officer is responsible for the implementation of the procedure and reporting any incidents to the Board of Directors, the Academic Board and Tertiary Education Quality and Standards Agency (TEQSA).

FEEDBACK

Please email the CEO through suggestionstotheceo@aapoly.edu.au if you have any questions or feedback about this policy. The CEO will respond to the question or feedback within two (2) weeks of receipt, unless extenuating circumstances require an urgent response. The query or feedback and its resolution will be recorded in the Continuous Improvement or Corrective Action register for quality assurance purposes.

References

| Source | Document Title | Version/Date |
|----------|--|---------------|
| Internal | Sexual Assault and Sexual Harassment Procedure | v2.2 01082018 |
| External | AHRC's "Change the Course" National Report | 2017 |
| | ASQA Standards for Registered Training Organisations | 2015 |
| | Higher Education Standards Framework | 2015 |
| | National Code of Practice for Providers of Education and Training to Overseas Students | 2018 |