

Student Sexual Assault and Harassment Policy

Crisis support (24/7)

Police and ambulance for safety and medical emergencies: **000** (112 from a mobile device)

1800 RESPECT for sexual assault counselling and information: **1800 737 732**

Emergency (on campus)

If you are ill, injured, or need urgent first aid on campus, contact UTS Security:

UTS Security: 1800 249 559 (24 hours a day, seven days a week)

UTS College 24/7 Accommodation/Welfare emergency line: +61 2 92184911

Community support services

Lifeline: 13 11 14, lifeline.org.au

Full Stop Australia (NSW Sexual Violence Helpline): 1800 385 578, fullstop.org.au

NSW Health Sexual Assault Services: via [NSW Health](https://www.nsw.gov.au/health)

Victims Support Scheme: victimsservices.justice.nsw.gov.au

1. PURPOSE

This Policy pertains to incidents of student sexual assault and harassment occurring at, or in connection with, UTS College as per the policy scope and sets out the responsibilities of students and staff in relation to, and the principles for preventing and responding to, incidents of sexual assault and harassment.

This Policy is supported by the Student Sexual Assault and Harassment Procedure

2. SCOPE

This policy applies to:

- All UTS College **Staff**.
- All UTS College **Students**, including those residing in student residential and homestay accommodation.
- All members of the **UTS College Community**, including volunteers, visitors to campus, homestay providers and hosts.
- **Third Parties and Affiliates** in Australia that offer services for or on behalf of UTS College, its staff and students.
- This policy/procedure/guideline applies to all teaching modes, on campus, and online.

- Other policies, procedures and agreements that apply to staff and students of UTS College in jurisdictions outside Australia or those that reside in student residential or homestay accommodation are not limited by this policy or its procedure. Third Parties and Affiliates in those jurisdictions must follow their local policies and procedures and/or contractual agreements as approved by UTS College.
- All offshore UTS College staff must abide by the UTS College Code of Conduct and adhere to the relevant laws in their own regions.
- UTS Security as it pertains to sexual assault and harassment matters involving UTS College Staff and Students on UTS campuses.

3. PRINCIPLES

UTS College Limited is committed to providing a safe, respectful and inclusive learning environment that is free from sexual assault and harassment. At UTS College:

- a) Sexual assault and harassment are not tolerated and are never acceptable behaviours.
- b) Sexual assault and sexual harassment are unlawful and constitute serious misconduct.
- c) The safety and wellbeing of the UTS community and the recovery of those who experience sexual assault and/or harassment are the highest priority.
- d) Disclosures or complaints of sexual assault and/or harassment made to UTS College will be responded to in a trauma-sensitive manner.
- e) Education and awareness are important aspects of preventing sexual assault and harassment.

UTS College aligns its response to sexual assault and harassment with the [Action Plan Addressing Gender-based Violence in Higher Education](#) and [TEQSA's Nine Principles for managing sexual assault and sexual harassment \(SASH\)](#):

1. Wellbeing and safety of students and staff who have experienced SASH are the focus of SASH prevention and response.
2. Leadership and Governance ensure institution-wide action.
3. Policies and procedures are comprehensive and implemented by well-trained staff
4. A safe environment is provided for all.
5. Comprehensive education and information materials are widely available and regularly updated.
6. Staff and students are trained to confidently recognise, prevent and respond to SASH.
7. Support is accessible, timely and just for all parties involved.
8. Incident reporting options and responses to SASH are fair, timely and effective.
9. Ongoing innovation, evaluation and improvement of SASH prevention and response measures.

4. POLICY STATEMENTS

Student Sexual Assault and Harassment Policy

UTS College Limited | Institute of Higher Education | ABN: 39 001 425 065 | TEQSA: PRV12022 | CRICOS: 00859D

v2.0, May 2024

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[UTS College Limited is a controlled entity of the University of Technology Sydney (UTS, TEQSA: PRV12060, CRICOS: 00099F) and provides pathway courses to UTS.]

4.1. Building a safe environment

UTS College aims to build an environment that is safe by:

- 4.1.1. Preventing incidents of sexual assault and harassment through implementing evidence-based programs and training that:
 - Increase awareness of the drivers, behaviours, attitudes, social practices and cultural norms that create an environment where sexual assault and harassment occurs,
 - Increase awareness of the UTS College definitions of, and approaches to, preventing sexual assault and harassment,
 - Work with participants to develop skills that oppose these behaviours, and
 - Support ethical bystander and ethical decision-making practices.
- 4.1.2. Supporting Disclosures and Complaints by building a culture that understands:
 - Everyone has the basic human right to live, study and work without experiencing sexual assault or harassment,
 - Sexual assault and harassment can happen to anyone, regardless of age, gender, identity, ability or sexuality,
 - Compassion, belief and empathy in responding to disclosures and complaints is critical, and
 - The responsibility for sexual assault and harassment is always with the offender.
- 4.1.3. Building trust by disseminating information through multi-media options regarding the UTS College Student Sexual Assault and Harassment Policy and Procedures including:
 - UTS College sexual assault and harassment disclosure and complaints process,
 - The UTS College Student Charter and Code of Conduct,
 - Continuous cycle of consultation and review of policy and procedures, and
 - Non-identifying reports of policy and procedure implementation and quality improvements.

4.2. Trauma-based response to disclosures and complaints

UTS College will:

- 4.2.1. Prioritise the welfare of those impacted by sexual assault and harassment and ensure that support is appropriate, accessible and offered in a way that is trauma responsive, including minimising the number of times a student may be required to recount a traumatic event, regardless of how the matter is disclosed.
- 4.2.2. Ensure that the person who chooses to make a disclosure or complaint
 - a) has immediate access to their choice of counselling and support options,
 - b) is fully informed of the disclosure and complaints process and their choices are accepted and respected,

- c) has access to an interpreter and/or other support as necessary,
 - d) knows who will have access to their personal information,
 - e) is aware of and consulted at each step of the process, and
 - f) is informed of the outcome with reference to any legislative requirements.
- 4.2.3. Ensure that there is no retaliatory or other adverse action taken or threatened against anyone because of their involvement in making a disclosure or complaint of sexual assault or harassment.
- 4.2.4. In the event of a complaint, and with the complainant's consent, undertake a review of the information provided where a student has breached the UTS College Student Charter and an internal investigation where a staff member has breached the UTS College Code of Conduct and determine appropriate disciplinary action.

Where a disclosure or complaint of sexual assault or harassment is made to the UTS College Student Success team, in addition to 4.2.2:

- 4.2.5. The Student Success Team will be transparent about the process including who will participate and what their role will be and provide timeframes for the completion of tasks.
- 4.2.6. Any person who has experienced sexual assault and/or sexual harassment will be informed about their right to report the crime to Police. UTS College will fully support the person to take those actions and cooperate with Police in their investigations.
- 4.2.7. The Student Success Team will not report an incident of sexual assault and/or harassment to the police without the express consent of the student, except where it is required to do so by law such in cases of mandatory reporting, when the conduct relates to a person under 18 years of age or young person to whom UTS College has a duty of care, or where the person who has experience sexual assault and/or sexual harassment has been injured and emergency services are required.
- 4.2.8. Any person who has experienced sexual harassment will be informed about their right to make a complaint to the Human Rights Commission. UTS College will fully support the person to make the report and cooperate with the commission in their investigations.
- 4.2.9. Any person who has experienced sexual assault or harassment will be informed about their right to lodge a complaint with the Tertiary Education Quality & Standards Agency (TEQSA). UTS College will fully support the person to make the report and cooperate with the agency in their investigations.

4.3. Disciplinary Actions and Sanctions

- 4.3.1. For complaints against students, the Student Compliance Team will review the information gathered about the incident. For complaints against staff, the People Team will review the information.
- 4.3.2. If, on the balance of probabilities it is concluded that the Student Charter or the Code of Conduct has been breached, one or more of the following may occur in relation to the person who has caused the breach:
- a) Further education and/or cultural change initiatives

- b) Providing a written caution
 - c) Referral to a specialised behaviour change counselling service
 - d) Make changes in contractual arrangements
 - e) Suspension from UTS College
 - f) Withholding a qualification
 - g) Exclusion from UTS College or expulsion.
- 4.3.3. Disciplinary action up to and including summary dismissal, in the case of a staff member's involvement. UTS College will ensure procedural fairness when reviewing a complaint against a student or staff member accused of sexual assault and harassment and ensure relevant support services are available to that person as required.

4.4. Recording and reporting

4.4.1. Privacy and Confidentiality

- a) Maintaining the confidentiality of a person who discloses or makes a complaint is paramount and any personal information collected by UTS College will be managed in accordance with the UTS College Privacy Policy.
- b) UTS College will ensure systems and/or processes that maintain documentation confidentiality are utilised, including ensuring disclosure and reporting information is kept separate from enrolment, employment or other records of the affected persons, or any witnesses.
- c) Information relating to the disclosure accessible by the person who provided it should they wish to use this information for the purpose of making a formal complaint or report to the police or other external agency.
- d) The complainant and the person or persons against whom a complaint has been made will all be held accountable to strict confidentiality requirements during and in some instances after the conclusion of the complaints process.
- e) Exceptions to 4.4.1c are where a person is accessing support or advice from a professional, where the Chairperson of the Health Safety Oversight Committee (HSOC) provides written permission, where there is a duty of care/risk of harm issue to self or others or a mandatory reporting requirement.
- f) A written record of any critical incident (such as a disclosed case of sexual assault and/or harassment) and remedial action taken by UTS college must be recorded for at least two years after the student ceases to be an enrolled student.

4.4.2. The UTS College Governance team will report to the Audit and Risk Committee and UTS College Board on sexual assault and harassment misconduct at least on a six-monthly basis on de-identified data including but not limited to:

- a) the number and type of disclosures, complaints or requests for support received
- b) the number of investigations conducted
- c) the number and type of formal complaints pertaining to sexual assault and harassment made

- d) the number and type of matters reported to the police or external agencies in accordance with the Student Sexual Assault and Harassment Procedure
- e) the number of incidents that proceeded to or required further action, including referrals to the UTS College Compliance team for misconduct proceedings
- f) any feedback provided by complainants, respondents, staff, third parties or witnesses
- g) the time taken to respond to and resolve disclosures and formal complaints as they pertain to sexual assault and harassment
- h) a summary of any trends detected from monitoring activities
- i) recommendations (if any) for improving UTS College's policies and procedures
- j) any further data, information or statistics that the Chief Executive Officer, Audit and Risk Committee and/or UTS College Board considers necessary from time to time.

4.4.3. Non-identifying reports will be made available to the UTS College community for the purposes of building trust and promoting the UTS College response to sexual assault and harassment.

4.5. Policy Review

4.5.1. This policy and its procedure will be reviewed annually.

5. RESPONSIBILITIES

5.1. UTS College Staff, Students, Third Parties and Affiliates

All UTS College members are responsible for:

- a) The collective responsibility of the safety and security of UTS College campuses and learning environments and will work together to ensure a safe environment is provided for all staff and students.
- b) Familiarising themselves and comply with the Student Sexual Assault and Harassment Policy and Procedure and other UTS College related documents including the UTS College Student Charter and UTS College Code of Conduct as necessary.
- c) Completing all required training provided by UTS College or its Third Parties and Affiliates as it pertains to the prevention of sexual assault and harassment.

5.2. Chief Executive Officer

The Chief Executive Officer is responsible for:

- a) The overall safety of UTS College staff, students and community, including through the resourcing and implementation of this policy and procedure
- b) Ensuring appropriate training programs are developed and maintained for delivery to UTS Staff and Students, and Third Parties and Affiliates where appropriate
- c) Compiling appropriate and timely reports in accordance with cl 4.3.2 of this policy
- d) The scheduled review of this policy and its procedure.

5.3. Audit and Risk Committee

The Audit and Risk Committee is responsible for:

- a) Providing advice and recommendations to the UTS College Board on associated risks, risk management and mitigation strategies and continuous improvement.

5.4. UTS College Board

The UTS College Board is responsible for

- a) Ensuring compliance with relevant legislation and regulatory requirements through the oversight and monitoring of activities related to this policy and its procedure and the assessment and management of associated risks.
- b) Monitoring and overseeing formal complaints, allegations of misconduct, appeals and critical incidents as they pertain to sexual assault and harassment.

6. RELATED DOCUMENTS

UTS College Policies and Procedures

- UTS College Student Sexual Assault and Harassment Response Procedure
- UTS College Code of Conduct
- UTS College Student Charter
- UTS College Prevention of Discrimination, Harassment and Bullying Policy
- UTS College Critical Incident – Student Management Policy
- UTS College Management of Student Incidents Procedure
- UTS College Non-academic Misconduct Policy and Procedure
- UTS College Student Complaints and Appeals Policy and Procedure
- UTS College Special Consideration Procedure
- UTS College Equal Opportunity Policy
- UTS College Work Health & Safety Policy and Procedures

Legislation

- Racial Discrimination Act 1975 (Cth)
- Anti-Discrimination Act 1977 (NSW)
- Disability Discrimination Act 1992 (Cth)
- Sex Discrimination Act 1984 (Cth)
- Age Discrimination Act 2004 (Cth)
- Sex and Age Discrimination Legislation Amendment Act 2011
- Fair Work Act 2009 (Cth)
- Fair Work Amendment Act 2013 (Cth)
- Australian Human Rights Commission Act 1986 (Cth)
- Work Health & Safety Act 2011 (NSW)

Regulatory Guidance

- Tertiary Education Quality and Standards Agency (TEQSA), Good Practice Note: Preventing and responding to sexual assault and sexual harassment in the Australian higher education sector – July 2020
- Action Plan Addressing Gender-based Violence in Higher Education – 2024

DEFINITIONS

Affiliates	Includes UTS College Board members, honorary appointees, contractors, labour hire personnel, volunteers, agency staff and any other person/s appointed or engaged by UTS College Limited.
Complaint	In this policy, the formal provision of written information by a person who has experienced sexual assault or harassment to UTS College.
Consent	<p>Consent means free and voluntary agreement to sexual activity. Consent can be withdrawn, and this must be respected. Consent cannot be assumed; it must be given.</p> <p>Below is a legal definition of consent. The UTS College position in relation to the Code of Behaviour is that consent is only given when consent is clearly expressed verbally or non-verbally. An absence of ‘no’ does not equal consent.</p> <p>A person does not give their consent if they:</p> <ul style="list-style-type: none"> • do not have the capacity to consent due to mental or physical impairment, • are asleep or unconscious, • are significantly affected by alcohol or other drugs, • are threatened, forced or afraid, • are restrained against their wishes, • are tricked or mistaken about the nature of the act, or who the other person is, • are tricked into thinking the other person is married to them or feel forced due to the position of authority by another person. <p>A person under 16 years cannot consent to sexual activity.</p> <p><i>Adapted from Youth Law Australia.</i></p>
Disclosure	Occurs when a complainant or another person tells someone about an incident of sexual assault or harassment. Disclosing is not the same as making a complaint. Disclosure will enable referral to appropriate support and information such as medical, legal and counselling support.
Ethical Bystander	In this policy context - a person who has knowledge about an incidence of sexual assault or harassment and makes a disclosure or complaint

Natural Justice	A duty to act fairly, where bias that may influence decision making is known, and there is a fair hearing offered to all parties.
Retaliatory Action	Threaten, intimidate or harass any person, intentionally interfering in a review or interfering with the academic or professional progress or career of an individual in relation to a complaint.
Sexual Assault	<p>Sexual assault - means engaging in sexual acts of a penetrative nature (such as intercourse and oral sex) with the person without their consent. This can be when it is known they do not consent, or there is a lack of care in relation to consent.</p> <p>Sexual Touching and Sexual Acts includes touching another person in a sexual way (for example, on a person's breasts or genitals) without their consent.</p> <p>A sexual act comprises doing something of a sexual nature towards another without their consent (for example, masturbating in front of them).</p> <p>Sexually Explicit Photos or Videos – is creating or distributing sexually explicit or intimate photos or videos of a person without their consent or threatening to do this</p>
Sexual Harassment	<p>Unwanted or unwelcome sexual behaviour which offends, humiliates or intimidates. Sexual harassment is defined by the person experiencing the actions not by the stated intent of the person or persons actioning the behaviour. Sexual harassment can be physical, spoken or written. It can include, but is not limited to:</p> <ul style="list-style-type: none"> • comments about a person's private life or the way they look • sexually suggestive behaviour, such as leering or staring • brushing up against someone or hugging • sexually suggestive comments or jokes • displaying offensive screen savers, photos, calendars or objects • repeated unwanted requests to go out • requests for sex • sexually explicit posts on social networking sites • insults or taunts of a sexual nature • intrusive sexually suggestive questions or statements about a person's private life • sending sexually explicit emails or text messages • inappropriate advances on social networking sites • accessing sexually explicit internet sites <p>A single incident constitutes sexual harassment.</p> <p>Lack of objection to the behaviour does not mean consent can be assumed.</p>

Students	Those currently enrolled in courses offered by UTS College including those who have enrolled but not yet commenced their studies and are onshore.
Volunteers	Current students or Alumni of UTS College who volunteer to support current students across various events, activities and clubs.
Workplace	The workplace includes classrooms, offices and other UTS College facilities, the UTS campus, channel partners and other stakeholders' premises, work related functions, events and any place visited arising out of or during the course of work, and any transportation provided or paid for by UTS College for undertaking any such work.

APPROVAL		
Policy Title	Student Sexual Assault and Harassment Policy	
Policy ID	PO/EDUC/15/24	
Policy Category	Governance	
Policy Audience	Staff, Students, Affiliates and Third Parties	
Policy Custodian	Student Support Manager	
Approval Authority	UTS College Board	
Endorsed by	Executive	Date: 4 October 2024
Approved by	UTS College Board	Date: 18 October 2024
Effective Date	21 October 2024	
Next Review Date	20 October 2025	

VERSION HISTORY

No.	Author	Description of change/purpose	Date
1.0	Student Welfare Team Leader	State UTS College's commitment to ensure an environment free from sexual assault and sexual harassment	June 2020
2.0	Student Support Manager	Reviewed and updated post move to UTS Campus	July 2024