

Sexual Assault and Sexual Harassment Prevention Policy Version 1.1

1. Purpose

Nexus Institute of Higher Education recognises the inherent worth and dignity of every individual. To uphold this tenet, the Institute has developed a comprehensive policy focused on its positive duty to prevent, address and alleviate the impacts of Sexual Assault and Sexual Harassment (SASH).

This Policy is to be read in conjunction with:

- Work, Health and Safety Policy
- Bullying, Discrimination and Harassment Prevention Policy
- Complaints and Appeals Policy
- Critical Incident Policy
- Student Code of Conduct
- Staff Code of Conduct
- Equity and Diversity Policy
- Privacy Policy

2. Scope

This Policy applies to all directors and committee members, staff, contractors, students, volunteers and other individuals involved with Nexus Institute activities.

The Policy covers all activities that take place

- at Nexus Institute
- in the course of the teaching programs and work-related duties of Nexus Institute
- at associated events that are coordinated by or attended on behalf of Nexus Institute
- on social media or via technology where interaction occurs between staff and students and others associated with Nexus Institute.

3. Definitions

Sexual assault. Sexual assault refers to a broad range of sexual crimes committed against a person. These crimes include sexual intercourse without consent, aggravated sexual assault, indecent assault, and acts of indecency. Sexual assault can take many forms, including, but not limited to:

- Rape – sexual intercourse against a person's will
- Forcible sodomy
- Forcible object penetration
- Unwanted sexual touching
- Sexual contact with minors, whether consensual or not
- Any form of unwanted or coerced sexual contact.

Sexual harassment. Sexual harassment, under the Sex Discrimination Act 1984 (Cth), is defined as any unwelcome conduct of a sexual nature which makes a person feel offended, humiliated and/or intimidated where that reaction is reasonable in the circumstance. Sexual harassment can be either a repeated behaviour or a one-off incident. Sexual harassment can take many forms, both physical and non-physical, including but not limited to:

- Staring, leering or unwelcome physical touching
- Sexual or suggestive comments, jokes or taunts
- The display of clearly sexual material including photos, pinups
- Making remarks with sexual connotations
- Unwanted invitations to go out on dates or meetups
- Unsolicited demands or request for sexual favours
- Intrusive acts of physical intimacy
- Sexually explicit physical contact;
- Voyeurism and concealed observation (including filming) of private activities
- Inappropriate use of social media, including revenge pornography, online video-conferencing and chat rooms
- Sexually explicit letters, emails, SMS text messages, phone calls or other forms of communication.

Sexual harm. Sexual harm is any unwanted, non-consensual behaviour of a sexual nature. Sexual harm includes sexual assault, rape, sexual harassment and any other unwanted sexual behaviour, whether online or in person.

Consent. Consent is the voluntary agreement to engage in a sexual act/s and the continued agreement to engage in the act/s. Voluntary agreement to engage or to continue to engage must be communicated through words or conduct. Consent can be withdrawn at any point. Consent cannot be given if the person is under 16 years of age; is threatened with harm, extortion, or humiliation; is under the effect of drugs or alcohol; is asleep or unconscious; is incapacitated mentally or physically; or is unlawfully detained.

Disclosure. Disclosure is the sharing of information regarding any incident of sexual misconduct with another person.

Report. Report is a formal statement, verbally and/or in writing, regarding the incident of sexual misconduct.

4. Policy statement

Nexus Institute affirms its commitment to fostering an environment that is free from sexual assault and sexual harassment and underscores its dedication to the principles of respect, care and inclusivity.

Nexus Institute has zero-tolerance policy for sexual assault or sexual harassment. Any individual found guilty will face stringent repercussions, potentially encompassing expulsion, termination and legal ramifications.

All staff and students should behave in a responsible and professional manner and treat others with dignity, courtesy and respect, avoid gossip and respect the confidentiality of complaint resolution procedures.

Nexus Institute encourages reporting of SASH incidents, no matter their nature or when they occurred. All staff and students have the right to raise sexual assault and sexual harassment issues or to make an enquiry or complaint in a reasonable and respectful manner without being victimised. Anonymous reporting avenues are available.

A person who experiences sexual assault or harassment is entitled to report their experience to the police and will be advised of their options.

Nexus Institute will provide support services, spanning counselling, medical interventions, and legal guidance, for those involved in SASH incidents. Anyone receiving a SASH disclosure will listen and respond appropriately to the concerns and offer support.

Nexus Institute is committed to upholding confidentiality and safeguarding the privacy and safety of anyone disclosing a SASH incident.

Nexus Institute will provide regular SASH awareness training for its entire community. The Institute aims to nurture an environment where every individual is well-informed, aware, and proactive.

5. Procedures

Training. Nexus Institute provides staff and students with clear information and training about what constitutes sexual assault and sexual harassment and the consequences of failing to maintain appropriate standards. Staff and students will be required to complete SASH training as part of their induction to Nexus Institute.

Disclosure and reporting. Nexus Institute supports the identification, reporting of and responding to sexual assault and sexual harassment. Anyone experiencing or witnessing sexual assault (including violence) or sexual harassment is encouraged to disclose and report the incident. The incident should be raised promptly with their supervisor or teacher or someone they trust at Nexus Institute. Anyone receiving a disclosure should react with compassion and empathy. On being requested to report the incident, the person receiving the information should make a report as quickly as possible to the CEO who shall then initiate the response process.

It is the choice of the person experiencing sexual assault or sexual harassment to make a formal report and decide what course of action to take. Nexus Institute will respect and support the decision. A request for support or a report can be made at any time. A formal report can be made to the police at any time. Support is also available from NSW Health.

Immediate response. The initial response prioritises the safety and well-being of the person involved, arranging medical aid if necessary, and diligently preserving evidence for any potential legal proceedings. If the incident involves physical assault, the victim of that assault, witnesses to that assault or person receiving the report should immediately contact the police and relevant emergency services. There is a dedicated helpline and email mechanism to assist with reporting and ensure timely acknowledgement (within 48 hours) of any reported SASH incident. Nexus Institute has a legal obligation to report incidents to law enforcement authorities that could be considered to constitute a criminal offence.

Investigation. The CEO will appoint a person acceptable to the complainant to coordinate all aspects of investigation, reporting and liaison with external parties. The complaint will be handled in accordance with the procedures in the Complaints and Appeals Policy. The person appointed will speak to the parties involved as soon as possible, gather information and seek to address the issue. The investigation will ensure that there is no victimisation of the person making the report or those helping to resolve it.

The person appointed will keep the CEO fully informed of the status of investigations. The CEO may take immediate safety measures to minimise the risk of harm of the person making the disclosure and other members of the Institute's community,

Follow-up actions. Appropriate disciplinary action may be taken against a person who is found to have committed sexual assault or sexual harassment. Depending on the gravity and

nature of the incident, this may include an official warning, legal action, dismissal or expulsion. If an investigation finds sexual assault or sexual harassment has not occurred or cannot be substantiated, Nexus Institute may still take appropriate action to address any issues identified by the investigation.

Beyond the immediate response, the Institute provides a continuum of care through counselling services, potentially making external referrals if specialised care is deemed necessary.

6. Roles and responsibilities

The CEO has overall responsibility for the safety and wellbeing of students and staff engaged in activities at Nexus Institute. The CEO will ensure preventative measures are in place to prevent sexual assault and sexual harassment, including an appropriate level of security at Nexus Institute and monitoring of the Nexus Institute online systems and social media sites for evidence of sexual assault and sexual harassment.

Staff have a responsibility and duty of care to prevent any potential sexual assault and harassment in the workplace and study locations. They have a responsibility to take action if they are aware of or notice inappropriate behaviours of a sexual nature. Supervisors may be liable (under “accessory liability” requirements) unless reasonable steps have been taken to prevent or eliminate threats of harassment.

All staff, students and those involved in Nexus Institute activities have a responsibility to foster a safe and inclusive work and study environment free from sexual harm, where all members of the community are treated with dignity, courtesy, and respect.

7. Related information

- Sex Discrimination Act 1984 (Cth)
- Anti-Discrimination Act 1977 (NSW) and NSW Anti-Discrimination Board
- Racial Discrimination Act 1975 (Cth)
- Disability Discrimination Act 1992 (Cth)
- Age Discrimination Act 2004 (Cth)
- Australian Human Rights Commission Act 1986 (Cth)
- Fair Work Act 2009
- ESOS Act 2000
- Higher Education Standards Framework (Threshold Standards) 2021
- National Code 2018, Standard 10 (Complaints and Appeals)
- Privacy Amendment (Enhancing Privacy Protection) Act 2012 and the Australian Privacy Principles
- TEQSA Good Practice Note: Preventing and responding to sexual assault and sexual harassment in the Australian higher education (July 2020)
<https://www.teqsa.gov.au/sites/default/files/good-practice-note-preventing-responding-sexual-assault-sexual-harassment-v2-0-web.pdf>
- Australian Human Rights Commission, 2023, “Guidelines for Complying with the Positive Duty under the Sex Discrimination Act 1984 (Cth), August 2023.
[https://humanrights.gov.au/sites/default/files/2023-08/Guidelines%20for%20Complying%20with%20the%20Positive%20Duty%20\(2023\).pdf](https://humanrights.gov.au/sites/default/files/2023-08/Guidelines%20for%20Complying%20with%20the%20Positive%20Duty%20(2023).pdf)
- AICD, Positive duty to prevent workplace sexual harassment.
<https://www.aicd.com.au/content/dam/aicd/pdf/tools-resources/director-tools/organisation/aicd-sex-harassment-playbook-final.pdf>



8. Document control

Category	Operational
HESF Standard	2.3, 2.4, 6.1.4, 6.2, 7.2
Policy name	Sexual Assault and Sexual Harassment Prevention Policy
Policy owner	CEO
Policy approver	Board of Directors
Date of approval	18 October 2023
Date of next review	1 October 2026
Change log	Version 0. Original version created on 8 October 2-23.
	Version 1. Minor additions and corrections to incorporate comments from the Board of Directors on 18 October 2023.
	Version 1.1. Resources on positive duty added on 20 November 2023.