



SEXUAL ASSAULT AND SEXUAL HARASSMENT (SASH) PREVENTION Procedure

DEFINITIONS

Terms in this document, for which definitions are not provided in the text or may not be self-evident or for which usage at ACC may differ to that in other higher education institutions are as follows:

ACC: Acronym for the Australian Chiropractic College, also referred to as 'The College'

College Contact Officers:

Dr Patrick Sim
President
Email: patrick.sim@acc.sa.edu.au
Phone: 0414 634 016

Natalie Simmons
General Manager
Email: natalie.simmons@acc.sa.edu.au
Phone: 0419 808440

Assoc Prof Navine Haworth
Academic Dean
Email: drnavine@acc.sa.edu.au
Phone: 0421 392 709

Mrs Renata Wilson
Student Counsellor and Welfare Advisor
Email: renatacandc@gmail.com
Phone: 0419 822 753

Harassment: Means 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. Harassment can be based on any of the attributes listed under the definition of discrimination and for example can include sexual, disability, racial, sexuality or gender based harassment.

Incident: In Workplace Health and Safety is a work-related event(s) in which an injury or ill health (regardless of severity) or fatality occurred, or could have occurred.

Incident Register: An official record that is maintained by an organisation or a company that provides details of all incidents that occur in the workplace, including the date, time and nature of the incident, the person(s) involved, the manager responsible for action, the action(s) taken, the outcome(s) and, if relevant, the means of ongoing review.

Individual(s): ACC staff and students (prospective, current and former), and other individuals associated with the College such as external providers, practicum hosts and contractors.

Privacy: When something is private to a *person*, it usually means that something is inherently special or sensitive to them. The domain of privacy partially overlaps with security, which can include the concepts of appropriate use, as well as protection of information. Privacy may also take the form of bodily integrity. It may also mean that individuals are not subject to unsanctioned invasions of privacy by a government, an institution or other bodies or authorities. In this document privacy is taken to mean privacy of information regarding ACC's staff, students and other individuals associated with the College.

Respondent: The person or institution against whom the grievance is lodged.

Sexual harassment: Means any unsolicited, unwelcome and unreciprocated behaviour act or conduct of a sexual nature that embarrasses, humiliates or offends other persons. It can be a single incident or a persistent pattern and can range from subtle behaviour to explicit demands for sexual activity or even criminal assault and including but not limited to the following examples:

- inappropriate jokes or comments with sexual connotations;
- the display of offensive material;
- comments and questions about another person's sexual conduct and/or private relationships;
- persistent unwelcome invitations;
- requests for sexual favours;
- offensive written, telephone or electronic mail or other computer system communications;
- unnecessary close physical proximity including persistently following a person; or
- unwelcome physical contact such as brushing against or touching a person.

Sexual Assault: Means any unacceptable sexual and/or physical behaviour that is a criminal offence.

Sexual assault means any sexual act that a personal does not consent to, including, but not limited to:

- Rape.
- Oral sex without consent.
- Sexual touching without consent.
- Sexual acts without consent.
- Indecent exposure.
- Voyeurism.
- Recording or distributing an intimate image of another person without their consent.
- Stalking or intimidating another person with the intention of causing them to fear physical or mental harm.

The South Australian Criminal Law Consolidations Act 1935, states the following in relation to consent:

- a) A person consents to sexual activity (which includes sexual intercourse) if the person freely and voluntarily agrees to the sexual activity
- b) A person has committed an offence if:
 - a. the other person did not consent to the first person's actions or withdrew consent; or
 - b. the first person was aware of the possibility that the other person may not be consenting or withdrew consent but proceeds regardless of that possibility; or
 - c. the first person was aware of the possibility that the other person may not be consenting or withdrew consent and does not take steps to ascertain whether the person does consent
 - d. the first person did not give any thought as to whether the other person is consenting to the act, or has withdrawn consent before deciding to proceed.

Individuals below the legal age of consent are deemed to have not consented to sexual activity. The legal age of consensual sex varies across Australian state and territory jurisdictions. In South Australia the age of consent is 17 years of age. In other states and Territories the age of consent is either 16 or 17 years of age.

Staff: Refers to academic and non-academic staff employed by the ACC.

Student: An individual person who is formally enrolled to study at the College. The 'individual person' is that who appears on the College's documents such as enrolment, admission and payment documents, and who is assigned an individual student ID.

Support Services: Services provided by the ACC, or are available externally, which are designed to provide student academic and personal support.

PURPOSE

The purpose of these procedures are to underpin ACC's commitment to preventing sexual misconduct, confirm the responsibilities of students and staff in relation to sexual misconduct and the outline the principles for preventing and responding to incidents of sexual misconduct at or connected to the College.

SCOPE

This policy and procedures apply to:

- all students enrolled with the ACC
- all staff members of the ACC
- persons contractually bound to comply with this policy.

PROCEDURES

Students, staff members and contractors who have experienced sexual assault or sexual harassment have a right to decide whether they want to:

- 1) confidentially disclose the incident to the College and/or
- 2) report the incident to the College for appropriate action.

1. Confidential Disclosures and Support

A person wishing to make a Confidential Disclosure of sexual assault or sexual harassment and/or access further information and support can contact the following internal and external services:

1.1 Internal Disclosure

In relation to internal confidential disclosure:

- Students and staff members can confidentially disclose incidents of sexual assault and sexual harassment to College Contact Officers).
- A person who makes a Confidential Disclosure will not be required to submit a Report to the College.
- The selected College Contact Officer is responsible for providing that person with information on the College's procedures for responding to reports of sexual assault and sexual harassment so that they are aware of the options available to them.
- The relevant manager is also responsible for notifying the President (or the General Manager if the President is the Respondent) of any disclosures of sexual assault or sexual harassment that may require action in order to maintain a safe workplace. The President (or General Manager) reserves the right to respond to Confidential Disclosures by taking appropriate action where it is deemed that such action is required to maintain a safe workplace.
- The relevant manager will comply with mandatory reporting requirements, for example incidents involving persons under the age of 18.
- In the event that a College Contact Officer is deemed by an Individual (staff member or student or contractor) to have a conflict of interest or is the subject of the Confidential Disclosure, the Individual is encouraged to disclose the sexual assault or sexual harassment incident to one of the other College Contact Officers.

1.2 External Disclosure

Should the Individual prefer to make a Confidential Disclosure of sexual assault or sexual harassment to an external source of assistance, the College encourages use of the following:

- **1800RESPECT** is a free and confidential 24/7 telephone counselling service that provides information and support for people who have experienced sexual assault, domestic or family violence. Information on local support services can also be found on the 1800RESPECT website or by downloading the free mobile app 'Daisy'.
Phone: 1800 737 732
Web: www.1800respect.org.au
App: <https://www.1800respect.org.au/daisy/>

The College also provides Individuals with information in relation to other external resources including:

- **Yarrow Place, which** provides free and confidential service for people aged 16 years and over at the time of sexual assault:
Phone: (08) 822 68777. After hours (08) 82268787
Web: <https://www.sahealth.sa.gov.au/wps/wcm/connect/public+content/sa+health+internet/services/primary+and+specialised+services/sexual+health+services/yarrow+place/yarrow+place>

- **SHINE SA, which** provides sexual health education, early intervention, health promotion, clinical services and therapeutic counselling.
Phone" 1300 794 584
Web: <https://www.shinesa.org.au>

2. Formal reporting of Incidents

2.1 Internal Reporting

Reports related to sexual assault and sexual harassment differ from Confidential Disclosures in that the incident will be recorded, confidentially communicated to appropriate staff members, confidentially communicated to the Respondent and responded to through actions undertaken by the College.

Students and staff members who have experienced sexual assault or sexual harassment are encouraged to report the incident (rather than making a disclosure) if they want the College to investigate or to take specific action.

Prompt reporting of sexual misconduct is encouraged to maximise the College's ability to respond effectively.

If the report relates to a visitor or other person over whom the College has no jurisdiction, the College may seek assistance from another organisation or refer the matter to an external agency for resolution.

A person wishing to report sexual assault or sexual harassment through internal avenues can do so by contacting any of the following designated Contact Officers:

2.2 External Reporting

The College also advises Individuals that their options for reporting include:

- The South Australian Police (SAPOL), for incidents of sexual assault. SAPOL provides a diverse range of services to the community and has the ultimate objective of ensuring that South Australia remains a safe place to live, visit and do business.
<https://www.police.sa.gov.au/>
- **Victims of Crime, which** can assist with incidents relating to forensic procedures such as DNA sampling and medical procedures:
<http://www.voc.sa.gov.au/forensic-procedures>

2.3 College Management of Received Reports

Reports of sexual assault and sexual harassment will be treated seriously, promptly, impartially and confidentially.

Upon receiving a report, the Contact Officer will provide the complainant with information and advice on:

- Internal and external support services
- The College's procedures for responding to reports of sexual assault and sexual harassment according to this policy document.

Where a Formal Report of sexual assault or sexual harassment identifies an Respondent, the College will notify the Respondent that they have been identified as a Respondent to a report. The Respondent will be assigned a separate College Contact Officer who will provide the Respondent with information and advice on:

- Internal and external support services

- The College’s procedures for responding to reports of sexual assault and sexual harassment according to this policy document.

Following consultation with the complainant, the Contact Officer will consult with the President and/or delegated staff member to determine an appropriate response. In determining the response, the College will consider the wellbeing and wishes of the complainant in conjunction with its obligation to provide a safe working and learning environment.

2.3.1 Sexual Harassment Report – College Response

The College will consider the following options in responding to reports of sexual harassment:

- **Option 1 – Conciliation**
Formal conciliation with an independent mediator will be undertaken if deemed appropriate by the College and agreed upon by both the complainant and the respondent.
In no circumstance will a person be required to participate in conciliation if they do not wish to do so.
- **Option 2 – Investigation**
Formal investigations will be conducted in a timely and confidential manner. If at the outcome, sexual harassment is found to have occurred, the College will take disciplinary action as necessary. Examples of possible consequences include termination of employment or engagement or preclusion from the College campus.

2.3.2 Sexual Assault Report – College Response

Upon receiving a report of sexual assault, the Complainant Contact Officer will inform the President (or General Manager where the President is the Respondent) and the Respondent Contact Officer will provide with the relevant party information and advice on:

- Internal and external support services
- The option to report the alleged incident to the South Australian Police
- The College’s procedures for responding to reports of sexual assault in accordance with this policy

A student or staff member who has experienced sexual assault may

- a) make a disclosure or complaint to the College, or
- b) report the incident to the Police but not make a disclosure to the Police, or
- c) make a disclosure or complaint to the College and report the incident to the Police

If the student or staff member who has experienced sexual assault reports the incident to the Police, the College will suspend any investigation and action in response to the sexual assault pending completion of the criminal process. The College reserves the right to impose any urgent or interim measure that may be necessary to preserve the safety and wellbeing of individuals.

If a student or staff member who has experienced sexual assault decides not to report the incident to the Police the College will protect the confidentiality of information relating to their disclosure or complaint, while meeting its obligations under South Australia’s Criminal Law Consolidation Act 1935. The College will conduct a formal investigation.

2.3.3 Procedures for Formal Investigations

- Formal investigations will be conducted in a timely and confidential manner.
- The investigations will be procedurally fair for all parties.
- If, at the outcome of the investigation, sexual assault is found to have occurred, the College will take disciplinary action as necessary. Examples of possible consequences include termination of employment or engagement or preclusion from the College campus.
- The College will comply with all mandatory reporting requirements, for example incidents involving persons under the age of 18.
- In some instances, the College may need to refer the reported incident to the South Australian Police against a person’s wishes, to ensure their safety or the safety of other members of the College

community, or to meet its legal obligations. In this case, the College will inform the victim before reporting the incident of sexual assault to the Police.

Student Reports

- Reports of sexual assault and sexual harassment made by students enrolled in the College's programs will adhere to the guidelines of this policy along with the *Students Grievance and Appeals Policy and Procedures*.
- Reports of sexual assault or sexual harassment made against students enrolled in the College's program will adhere to the guidelines of this policy and the College's *Code of Conduct Policy and Procedures*.

Staff Reports

- Reports of sexual assault or sexual harassment made by staff members, or made against staff members, will adhere to the guidelines of this policy, the *Grievance Management (Staff) Policy and Procedures* and the Fair Work Act 2009.

Other Stakeholder Reports

- Reports of sexual assault or sexual harassment made by all other members of the College community, including contractors, clients, volunteers and visitors will adhere to the guidelines of this policy.
- Reports made against a contractor, client, volunteer or visitor will adhere to the guidelines of this policy and the relevant service contract or agreement, if applicable.

3. Opportunity to be heard

- Disclosures and reports of sexual assault and sexual harassment will be resolved sensitively, fairly, confidentially and with a minimum of disruption, while following the principles of procedural fairness.
- 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.
- Complainants and respondents may be accompanied to any meeting by a support person, if they wish, providing that such persons are not formal legal representatives.
- 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.

4. Interim Measures

In order to minimise the potential for harm to any person, the President (or General Manager where the President is the Respondent) may take interim measures against a student or staff member in response to a disclosure or report of sexual assault or sexual harassment while investigations are underway.

5. Vexatious complaints

Students and staff are advised on the difference between a vexatious or malicious complaint of sexual assault or sexual harassment (which the College discourages) as opposed to a valid complaint.

A complaint will be considered vexatious or malicious if the student or staff member makes it:

- a) knowing it to be false and/or
- b) for the primary purpose of damaging the College or the person against whom the complaint is made.

Making a vexatious or malicious complaint may result in disciplinary action according to the College's *Code of Conduct Policy* or the relevant Staff Agreement.

6. Confidentiality (Privacy)

The College will keep confidential all information relating to a disclosure or report of sexual assault or sexual harassment, unless:

- a) the complainant consents to a disclosure of part or all of the information for a specified purpose, or
- b) in instances where the College needs to refer the reported incident to the South Australian Police against a person's wishes, to ensure their safety or the safety of other members of the College community, or to meet its

legal obligations. In this case, the College will inform the victim before reporting the incident of sexual assault to the Police.

Complainants and respondents are advised that they need to keep confidential the fact that a complaint has been made, the nature of that complaint and all information relating to the investigations.

Complainants and respondents may only disclose information related to the alleged incident in order to obtain support or advice from immediate family members, a qualified counsellor or psychologist, a lawyer, or the Police.

7. Education and Training

All members of the College community will be made aware of this policy. This will be achieved through awareness raising activities and by incorporating the policy in contracts, agreements and conditions of enrolment.

All members of the College community will be informed of the College's *Code of Conduct Policy* and ways to access support. This will be achieved through ongoing awareness-raising activities.

Administration and academic staff will complete training as part of induction processes.

The President and Contact Officers will complete training at regular intervals.

These principles for the most efficient and effective resolution of sexual misconduct incidents are emphasised in bi-annual staff induction and student orientation programs and in business negotiations for the procurement of services from contractors.

IMPLEMENTATION and MONITORING

The implementation of this procedure is the responsibility of the College President.

REVIEW

The Sexual Assault and Sexual Harassment Prevention Procedure is reviewed every three years.

It is a policy of the ACC that any Policy or Procedure may be reviewed earlier as indicated by internal or external factors (including but not limited to such factors as changes in the guidelines of regulatory authorities, accreditation/registration requirements of the profession, or relevant legislation at state or federal level) as determined the Board of Directors and/or Academic Board.

RELATED POLICY DOCUMENTS

- Sexual Assault and Sexual Harassment (SASH) Prevention Policy
- Student Grievance and Appeals Policy and Procedures
- Grievance Management (Staff) Policy and Procedures
- Code of Conduct Policy and Procedures
- Workplace Health and Safety Policy and Procedures
- Equity and Diversity Policy.

VERSION CONTROL

Document: C009 Sexual Assault and Sexual Harassment (SASH) Procedure		
Responsible Officer: General Manager		
Reviewed and approved by: General Manager		Date: 22 November 2022
Reviewed and approved by: General Manager		Date: 2 March 2023
Version: V3.0	Replaces Version(s): V2.0	Next Review: March 2026
HESF	2.3 Wellbeing and Safety	
Nature of Change	<p>November 2022</p> <ul style="list-style-type: none"> • Separate the Sexual Assault and Sexual Harassment from the Work, Health and Safety Policy • Update titles and responsibilities to reflect organizational structural changes. <p>March 2023</p> <ul style="list-style-type: none"> • Include provisions in the event that the President is the respondent • Clarify the process and support in relation to the Respondent • Include the Student Counsellor and Welfare Advisor as a College Contact Officer • Include the HESF reference in the Version Control Table. 	