



Policy and Procedures –

# Preventing and Responding to Sexual Assault and Sexual Harassment

APPROVED

THE INSTITUTE OF INTERNATIONAL STUDIES



## 1. Purpose

The purpose of this Policy is to ensure that the Institute of International Studies (“TIIS”) implements and maintains appropriate support frameworks to:

1. Offer appropriate education to staff members and students and the wider TIIS community on sexual harassment and sexual assault.
2. Establish prevention initiatives against sexual harassment and sexual assault at TIIS.
3. Ensure TIIS students and staff are empowered to take appropriate action against sexual harassment and sexual assault.

## 2. Overview

TIIS is committed to providing a safe and respectful environment for study and work. TIIS takes all allegations of misconduct seriously. This *Policy and Procedures* sets out TIIS’s position in relation to preventing and responding to sexual assault and sexual harassment. The Policy and associated Procedure has been designed with consideration of the recommendations made by the:

- Australian Human Rights Commission Report in 2017: *National Report of Sexual Assault and Sexual Harassment at Universities*.
- TEQSA Report in 2019: Report to Minister for Education: *Higher education sector response to the issue of sexual assault and sexual harassment*.
- TEQSA Guidance Note: *Well-being and Safety* v.1.2 2018

## 3. Legislation

The relevant legislation includes:

- All Federal and State anti-discrimination legislation Age Discrimination Act 2004 (Cwth) Anti-Discrimination Act, 1977 (NSW)
- Australian Human Rights Commission Act 1986 (Cwth)
- Community Relations Commission and Principles of Multiculturalism Act 2000 (NSW)
- Defamation Act 2005 (NSW)
- Disability Discrimination Act 1992 (Cwth)
- Equal Opportunity for Women in the Workplace Act 1999 Fair Work Act 2009 (Cwth)
- Human Rights and Equal Opportunity Commission Act 1986 Privacy Act 1998 (Cwth)
- Racial Discrimination Act 1975 (Cwth)
- Sex Discrimination Act 1984 (Cwth)
- Workplace Relations Act 1996

This Policy and Procedure is also informed by Higher Education Standards Framework standard 2.3 (Well-being and Safety), which states:

- “1. All students are advised of the actions they can take, the staff they may contact and the support services that are accessible if their personal circumstances are having an adverse effect on their education.

2. Timely, accurate advice on access to personal support services is available, including for access to emergency services, health services, counselling, legal advice, advocacy, and accommodation and welfare services.
3. The nature and extent of support services that are available for students are informed by the needs of student cohorts, including mental health, disability and wellbeing needs.
4. A safe environment is promoted and fostered, including by advising students and staff on actions they can take to enhance safety and security on campus and online.
5. There is a critical-incident policy together with readily accessible procedures that cover the immediate actions to be taken in the event of a critical incident and any follow up required."

#### 4. Definitions

|                   |   |
|-------------------|---|
| Consent           | <p>In the context of sexual activity, consent is free and voluntary agreement to engage in the specific sexual activity undertaken. Consent does not exist when:</p> <ul style="list-style-type: none"> <li>the person is under the lawful age of consent as specified in the applicable criminal code or legislation.</li> <li>the person agrees because of force, the threat of force, or the threat of humiliation.</li> <li>the person is unlawfully detained.</li> <li>the person is asleep or unconscious.</li> <li>the person is intoxicated to the point of being unable to give meaningful consent.</li> <li>the person is incapable of understanding the nature of the activity.</li> <li>the person has a mistaken belief about the identity of the other person, or</li> <li>the person is mistaken about the nature of the activity.</li> </ul>  |
| Sexual Harassment | <p>Sexual harassment is unwelcome behavior of a sexual nature that makes a person feel offended, humiliated or intimidated, and which a reasonable person having regard to all the circumstances would have anticipated as likely to cause offence, humiliate or intimidate.</p> <p>Examples of sexual harassment include:</p> <ul style="list-style-type: none"> <li>non-consensual physical contact, such as pinching, touching, grabbing, kissing or hugging.</li> <li>sexual assault</li> <li>staring or leering at a person or at parts of their body</li> <li>persistent requests to go on dates that are refused.</li> <li>suggestive comments about a person's body or appearance</li> <li>sexual jokes or comments and sexually explicit conversations</li> <li>displays of offensive material.</li> <li>accessing or downloading sexually explicit or inappropriate material from the Internet</li> </ul> |

|                |   |
|----------------|---|
|                | <ul style="list-style-type: none"> <li>• sending rude or offensive emails, attachments or text messages (including pictures of body parts)</li> <li>• advances via online platforms</li> <li>• intrusive questions about a person's private life or physical appearance</li> <li>• disclosure of a person's private personal information without their permission</li> </ul>  |
| Sexual Assault | <p>Sexual assault is a range of behaviors, all of which are unacceptable and constitute a crime, when a person is forced, coerced or tricked into sexual acts against their will or without their free and voluntary consent, including when they have withdrawn their consent. This includes:</p> <ul style="list-style-type: none"> <li>• rape</li> <li>• indecent assault (sexual acts that involve touching)</li> <li>• any sexual contact with a child</li> <li>• sexual servitude</li> <li>• forcing someone to witness a sex act.</li> </ul> |

## 5. Scope

This Policy applies to all people connected to or having business relationship with TIIS, including but not limited to students, staff members, directors, and contractors ("Members of the TIIS Community").

## 6. Principles

TIIS has adopted the Nine Principles as outlined in the *Good Practice Note: Preventing and responding to sexual assault and sexual harassment in the Australian higher education sector - July 2020*.

1. TIIS treats all parties involved with respect. All parties should be heard with compassion, not judgement or blame.
2. TIIS Leadership team models respectful behavior and take responsibility for the wellbeing of the TIIS community.
3. TIIS establishes a context-appropriate framework of interrelated sexual assault and sexual harassment policies and procedures designed to prevent, identify, record, and respond to sexual assault and sexual harassment.
4. TIIS ensures that all members of the TIIS Community have the right to work and study in a safe environment free of sexual harassment and sexual assault.
5. TIIS fosters a culture that encourages the public provision of information about the prevention and response to sexual assault and sexual harassment.
6. TIIS ensures that staff and students are trained to confidently recognize, prevent and respond to sexual assault and sexual harassment.
7. TIIS ensures that advice and support for all parties involved should be accessible, timely and linked with appropriate services including counselling and referral services.
8. TIIS ensures that multiple reporting pathways exist, and all students and staff are well informed about these. Incidents of sexual assault and sexual harassment are recorded and investigated appropriately, data are monitored, and the governing board actively responds to issues that arise.
9. TIIS ensures that its prevention of and response to sexual assault and sexual harassment is monitored and evaluated which leads to process improvements.

## 7. The Roles and Responsibilities

- TIIS management has the primary duty and responsibility to minimize and/or eliminate, so far as is reasonably practicable, the risks to health and safety of all TIIS members.
- TIIS Board of Directors via the CEO has ultimate responsibility to ensure effective management of sexual assault and sexual harassment incidents.
- TIIS Management Team including the Dean, the Program Coordinator, the Student Services Team Leader is responsible for training student services staff to handle incidents appropriately including managing personal data, escalation points and key contact personal.
- TIIS WHS Officer is the key contact person for sexual assault and sexual harassment issues.
- TIIS will ensure that any complainant, respondent and any witnesses in a reporting and response process will be:
  - treated fairly, with dignity and respect.
  - heard with compassion, not judgement or blame.
  - heard by first responders with the assumption that their report is genuine (this also applies to the alleged perpetrator's story)
  - afforded privacy for all conversations.
  - provided with information about options for reporting within, and external to, the provider.
  - not discouraged from making a formal complaint
  - free to decide which, if any, disclosure or report to make
  - provided with access to support, ideally 24 hours a day.
  - responded to in a timely manner.
  - reassured of the confidentiality of their disclosure.
  - kept informed of any action the provider takes in relation to their disclosure, report or complaint and the expected timelines for resolutions of matters reported to the provider.

## 8. Reporting sexual harassment and sexual assault

Any member of the TIIS community who experiences sexual harassment or sexual assault when engaged in work- or study-related activities is strongly encouraged to make a report to TIIS WHS Officer. In the case of sexual assault, TIIS members are encouraged to contact police immediately and notify TIIS WHS office or CEO or his delegate of the incident and police report.

Any TIIS staff member or student who considers that he or she has been sexually harassed by another person at TIIS, either a student or a staff member, and believes the matter cannot be resolved on a one-to-one basis, is encouraged to:

- Discuss the matter with TIIS WHS Officer, or
- Refer the matter directly to the TIIS CEO or his delegate.
- 
- The TIIS WHS Officer (or CEO or his delegate, if appropriate, will attempt to initially resolve the matter with the complainant within 2 working days from receipt of complaint.
- If the matter cannot be resolved as above, or if the complainant requests, the TIIS WHS Officer (or CEO or his delegate if appropriate) will initiate a mediation process between the parties within 5 working days.
- A TIIS Staff member might be nominated to act as an intermediary between the parties with the aim of reaching an agreed solution.

- If mediation or conciliation fails, or in the case of serious allegation, TIIS will appoint an investigator who would interview the complainant, respondent and any witnesses. After gathering information, the investigator will consider whether the complaint is substantiated, and then consider the formulation of appropriate recommendations to the CEO or the Board of Directors for action.
- If the complainant makes a formal report to Police, TIIS will fully cooperate with police under relevant legislations.

## 9. Disciplinary Actions

Any Conduct that breaches this *Policy and Procedures* will result in an investigation which may result in disciplinary action. Findings and action taken will be reported, within 10 working days of commencement of investigation, using a standard form entitled "Investigating Sexual Assault and Sexual Harassment Incident". Where appropriate, the incident will be reported to the Police or made public. If TIIS Management feels it necessary to protect the safety and wellbeing of the TIIS community, any person may be subject to without-prejudice measures once a report is made or while an internal or police investigation is ongoing, including but not limited to:

- i. suspension or termination from TIIS studies (for students)
- ii. suspension or termination from employment (for employees)
- iii. reassignment of a person's work or study location or class allocation, if appropriate, or
- iv. a temporary ban on attending campus or particular parts of campus (although students may be enabled to continue studies online if practical).

## 10. Support Services

TIIS will provide the following services, if required, including

- Counselling
- Assistance for alleged perpetrators
- Academic Support to students.
- External services will be referred to any TIIS Member, if necessary, for assistance.
  - Sexual Assault Counselling Australia
  - NSW Rape Crisis
  - 1800 Respect
  - Lifeline
  - Beyond Blue
  - Suicide call back service
  - NSW Police

After a matter has concluded, TIIS will continue to provide reasonable assistance and support measures as determined on a case-by-case basis to:

- protect the safety and welfare of all parties, and
- support any person who has been sexually harassed or sexually assaulted.

## 11. Recordkeeping and reporting

TIIS will keep accurate and sufficient records of all reports according to its Record Management Policy and Procedure.

## 12. Review of the Policy

This *Policy and Procedures* will be monitored, reviewed and updated whenever necessary.

## 13. Associated Documents

- TIIS Staff Handbook
- TIIS Staff Grievances Policy
- TIIS Student Handbook
- TIIS Student Grievances Policy
- Investigating Sexual Assault & Sexual Harassment Incident
- Reporting Sexual Assault & Sexual Harassment Incident
- Witness Statement
- TIIS WHS Policy and Procedure

## 14. Version History

| Version | Approved by                    | Approval date | Details                            | Next Review          |
|---------|--------------------------------|---------------|------------------------------------|----------------------|
| 1.0     | Executive Management Committee | 13 April 2016 | Document creation<br>– Final Draft | <b>June 2019</b>     |
| 2.0     | Executive Management Committee | 7 June 2019   | Updated 7 June<br>2019 version 10  | <b>December 2020</b> |
| 2.0     | Executive Management Committee | 11 March 2021 | Updated 7 June<br>2019 version 10  | March 2022           |

Document owner: CEO