

POLICY NUMBER:	1.10	VERSION NUMBER:	5.0
DATE LAST REVIEWED:	April 2024	NEXT REVIEW DATE:	June 2026
RELATED POLICIES:	1.7, 1.11, 2.18, 4.12	RESPONSIBILITY:	Governing Board

PREVENTION OF AND RESPONSE TO SEXUAL MISCONDUCT

1.0 Purpose

This policy sets out the principles underpinning the Institute's approach to preventing, and responding to, sexual assault and sexual harassment.

This Policy and Procedure operates in conjunction with the following policies: Bullying, Harassment and Discrimination; Critical Incident Management; Student Safety, Health and Wellbeing; Student Academic and Wellbeing Support.

Where a student is in imminent danger or requires urgent medical attention, call emergency services on 000 or contact the highest manager on site (e.g., Branch Manager, Program Leader).

2.0 Scope

This policy applies to students. Staff and members of Institute decision making bodies are referred to UP's policies, which can be found in Bamboo HR.

3.0 Principles

3.1 The Institute's approach to promoting wellbeing and safety reflects the following principles:

- Students have a right to a safe learning environment and safe work environment free from sexual assault and sexual harassment;
- The Institute has zero tolerance for sexual assault and sexual harassment;
- The Institute educates its students and staff, in orientations, inductions, and in the Student Handbook, which is available on the Institute's website, about how best to enhance their personal safety, including in regard to sexual assault and sexual harassment;
- Students and staff should interact with others in a respectful, considerate manner, and without discrimination, threats or intimidation;
- The Institute supports initiatives and activities which aim to prevent sexual assault and sexual harassment;
- The Institute has in place an accessible, effective system for students to report incidents of sexual assault and sexual harassment;
- The Institute provides, or sources from trusted agencies or organisations, support for students who have experienced, or been threatened with, sexual assault and sexual harassment;
- The Institute regularly reviews the effectiveness of its approach to preventing, and responding to, sexual assault and sexual harassment; and

3.2 The Institute will comply with legislative and regulatory requirements.

4.0 Identifying Sexual Assault and Sexual Harassment

4.1 Sexual Assault

- 4.1.1 Sexual assault is unlawful and constitutes serious misconduct. Sexual assault is any unwanted or forced sexual act or behaviour that occurs without consent. Sexual assault occurs when a person indecently assaults another person or procures another person, without their consent, to commit a sexual act (Section 352, Criminal Code Act 1899 (Qld)).
- 4.1.2 Consent must be freely and voluntarily given by a person with the cognitive capacity to do so and can be revoked at any time. Consent cannot be given by an individual who is unconscious, asleep, or under the influence of drugs or alcohol.
- 4.1.3 Further, and in accordance with the Criminal Code Act 1899 (Qld) a person's consent to an act is not freely and voluntarily given if it is obtained:
- by force; or
 - by threat or intimidation; or
 - by fear of bodily harm; or
 - by exercise of authority; or
 - by false and fraudulent representations about the nature or purpose of the act; or
 - by a mistaken belief induced by the accused person that the accused person was the person's sexual partner.

Sexual assault is	Sexual Assault is not
▪ sexual intercourse without consent; ▪ oral sex without consent; ▪ anal sex without consent; ▪ groping and inappropriate touching of a sexual nature without consent.	▪ a consensual sexual act or behaviour.

4.2 Sexual Harassment

- 4.2.1 Sexual harassment is unlawful under the Anti-Discrimination Act 1991 (Qld) and the Sex Discrimination Act 1984 (Cth) and constitutes misconduct. Sexual harassment is a form of harassment and includes any unwelcome or unsolicited conduct of a sexual nature that is offensive, humiliating, intimidating or threatening. The behaviour does not have to be repeated for it to constitute sexual harassment.
- 4.2.2 Conduct of a sexual nature includes making a statement of a sexual nature to a person, or in the presence of a person, whether the statement is made orally or in writing.
- 4.2.3 Sexual harassment occurs in circumstances where a reasonable person, having regard to all the circumstances, would have anticipated the possibility that the person harassed would be offended, humiliated or intimidated.

Sexual harassment is	Sexual harassment is not
One-off or repeated incidences of: ▪ unwanted physical contact such as patting, pinching or touching in a sexual way; ▪ unnecessary familiarity such as deliberately brushing against a person; ▪ sexual propositions; ▪ unwelcome and uncalled for remarks or insinuations about a person's sex or private life; ▪ suggestive comments about a person's appearance or body; ▪ offensive telephone calls, texts, emails or social media posts of a sexual nature; ▪ subjecting a person to sexually offensive screen savers or images in electronic or other form.	▪ sexual contact that has been engaged in with consent of the recipient, when the consent has not been obtained through fear, intimidation, threats or force or where there is a power imbalance in the relationship; ▪ flirting that is invited and not unwelcome; ▪ attraction or friendship that is invited and not unwelcome; ▪ conduct of a non-sexual nature such as unreasonably requesting a person to do a favour that is not sexual in nature (which may be considered harassment or bullying).

5.0 Prevention

- 5.1 The Institute will work to prevent sexual assault and sexual harassment by means of the following steps:
- 5.1.1 The Institute will make clear its zero tolerance for sexual assault and sexual harassment, and related expectations and responsibilities of students and staff, in student orientations, staff inductions, regular information updates to students and staff, information published in the Student Handbook, which is available on the Institute's website, through workshops and other educative measures, and through an accessible and clear set of policies and procedures, notably the Student Code of Conduct.
 - 5.1.2 The Institute will, through the mechanisms described above, effectively communicate the options available for reporting sexual assault and sexual harassment and the actions that may consequently be taken by the Institute.
 - 5.1.3 The Institute will encourage students and staff to report incidents of sexual assault and sexual harassment, and situations in which the threat thereof is developing, making clear that the victimisation of those reporting incidents is not tolerated.
 - 5.1.4 The Institute will strive to build a culture of respectful and considerate interaction within its community of students and staff.

6.0 Reporting and Disclosure

- 6.1 The Institute encourages individuals to report incidents of sexual assault and/or sexual harassment. The incident may be reported by the victim, bystander or another person (with consent). A complaint may be reported in accordance with this policy at any time following an incident, regardless of whether or not the incident has been reported to police.

- 6.2 The Institute supports individuals who have been affected by sexual assault and/or sexual harassment to manage their response on their own terms and when they feel safe and confident to do so. There are occasions however where limits to confidentiality should be observed, specifically in instances of child sexual abuse/assault or where there is a continued/immediate threat to the safety of the individual or others.
- 6.3 An individual who has been the subject of sexual assault and/or sexual harassment may wish to disclose to a fellow student or staff member of their choice. The health, safety and wellbeing of the person disclosing is of the utmost priority. To be effective in their response, staff and students can follow these basic principles:
- Ensure privacy (in line with 1.13 Privacy and Personal Information Policy)
 - Listen, show empathy and respect
 - Refer and recommend specialised support
 - Acknowledge that the survivor may or may not wish to report the incident formally.
 - Look after yourself
- 6.4 The manner in which a person responds to a disclosure of sexual assault or sexual harassment can have a significant impact on the individual's ability to seek further assistance and recover from any trauma. Students and staff are encouraged to refer the matter to the Program Leader or obtain information from the Liaison Officer (Hayley Wood, hayley@aipc.net.au) if they are approached by an individual with a matter that they do not feel equipped to deal with.
- 6.5 AIPC does not tolerate victimisation and will take reasonable steps to ensure that all individuals involved are not victimised.
- 6.6 Self Help
- 6.6.1 An individual may review their options and choose to attempt to resolve an incident without formally reporting or disclosing their concern.
- 6.6.2 When an individual feels confident and safe to do so, they may choose to contact the alleged perpetrator (either verbally or in writing) and communicate to them that the behaviour is unwelcome and request it cease.
- 6.6.3 If an individual engages in self-help and the alleged perpetrator continues the offending behaviour, they may seek to move to informal disclosure or lodge a formal complaint.
- 6.6.4 Self-help is not an option for incidents relating to violence or sexual violence.
- 6.7 Informal Disclosure
- 6.7.1 If an individual does not wish to engage in self-help, or self-help has been insufficient in dealing with the issue, they may wish to disclose the incident to AIPC/COLAB without taking action against the alleged perpetrator.
- 6.7.2 Informal disclosures are to inform the AIPC of risks and events and will not result in an investigation or referral of an alleged perpetrator.
- 6.7.3 The individual may choose to provide a verbal account of the incident to a staff member or fellow student in order to gain information about their support and reporting options. An individual may choose to have an informal disclosure

recorded by reporting their concerns via email to the Program Leader, providing relevant details about the incident.

- 6.7.4 In the first instance, the Program Leader will notify the Liaison Officer (Hayley Wood, hayley@aipc.net.au) of the incident. The Liaison Officer contacts the student to discuss the incident, and provides appropriate support and referral to external agencies if/as needed. AIPC's response to the informal disclosure will be guided by the wishes of the complainant.
- 6.7.5 The Program Leader will keep a record of any informal disclosures should a complainant choose to raise a formal complaint in the future, where the alleged perpetrator remains a student of AIPC.

6.8 Formal Complaint

- 6.8.1 At any time, an individual may lodge a formal complaint of the incident to the Program Leader and/or the Liaison Officer (Hayley Wood, hayley@aipc.net.au).
- 6.8.2 In the first instance, the Liaison Officer discusses the incident with the student and provides appropriate support and referral to external agencies if/as needed. The Liaison Officer follows up with the student on an ongoing basis to ensure they are receiving appropriate care and support.

6.9 Addressing a Complaint

- 6.9.1 Upon receipt of a complaint, the Program Leader and Liaison Officer discuss and decide a way forward to investigate the complaint.
- 6.9.2 Receipt of complaints, information ascertained during investigation, and options to address the matter are then discussed with the CEO. Resulting actions are addressed under the relevant student or staff conduct policies.
- 6.9.3 Appropriate records are kept by the Liaison Officer regarding each incident reported and its outcome.

6.10 Investigation

- 6.10.1 The Institute cannot determine whether a civil wrong or a crime has occurred. The Institute can only determine whether a person(s) has breached the Institute's Code of Conduct or other relevant policy and agreement.
- 6.10.2 The parties involved should be advised that any investigation conducted by the Institute does not replace a criminal process. This also means that this policy may not be applicable in situations whereby a complaint or report is made about someone external to the Institute. The Institute has limited investigative resources or mandate as the police, and the person(s) involved should consider making a police complaint if there are serious allegations of criminal behaviour.

8.0 Reporting

- 7.1 An annual report is to be provided to the AIPC Governing Board on sexual misconduct incidents responded to during the year.

9.0 Relevant Legislative and Regulatory Documents

- Anti-Discrimination Act 1991 Qld
- Criminal Code 1899 Qld
- Higher Education Standards (Threshold Standards) 2021 Cth
- National Code of Practice for Providers of Education and Training to Overseas Students 2018 Cth
- Sex Discrimination Act 1984 Cth
- TEQSA Guidance Note: Wellbeing and Safety, January 2018
- TEQSA: Preventing and Responding the Sexual Assault and Sexual Harassment in the Australian Higher Education Sector, July 2020

10.0 Version Control History

Version	Date Approved	Approved By	Summary of Changes
1.0	Jun 2007	Chief Executive Officer	Policy created. Titled 4.8 Discrimination, Harassment and Bullying
1.0	Jun 2008	Chief Executive Officer	No changes made.
1.0	Jun 2010	Chief Executive Officer	No changes made.
2.0	Jan 2012	Chief Executive Officer	Policy number changed to 4.17. Minor heading adjustments throughout. Policy updated to reflect amendments to the Act concerning discrimination. Policy expanded the section on Bullying to include Workplace Harassment. Definitions and examples of workplace harassment and bullying have been included. Clarification of Management's responsibilities in responding to complaints have been included in the policy.
2.0	Jan 2013	Chief Executive Officer	No changes made.
2.0	Nov 2013	Chief Executive Officer	No changes made.
2.0	Jul 2015	Chief Executive Officer	No changes made.
2.0	Mar 2016	Chief Executive Officer	No changes made.
2.1	Mar 2019	Chief Executive Officer	Minor wording changes to remove EEO and Affirmative Action from responsibility.
3.0	Jun 2022	Governing Board	Policy renamed as 2.11 Prevention of and Response to Sexual Misconduct. Purpose, scope and principles of policy have been developed to reflect the change in title and focus of the policy. Sections on Sexual Assault and Sexual Harassment have been added from policy 2.21. The Institutes responsibilities in prevention, reporting and disclosure have been added to this policy. AIPC/COLAB replaced with the Institute.
4.0	Mar 2021	Higher Education Board	Policy renamed and substantively revised as 2.21 Student Wellbeing and Safety Policy. The update repositions the framework to prioritise student wellbeing and safety, expanding scope to explicitly address sexual assault, sexual harassment, harassment, bullying and discrimination. Definitions were strengthened and aligned to relevant legislation, and references updated to include COLAB. New sections on Prevention and Reporting and Disclosure establish proactive risk mitigation measures and clear pathways for support, reporting and managing incidents.
4.1	Apr 2022	Higher Education Board	Minor changes to wording – including diploma students
4.1	May 2023	Governing Board	No changes made.
5.0	Apr 2024	Governing Board	Policy number changed to 1.10. Formatting change. Subsection headings changed to reflect policy number change. Scope of policy

updated to apply to only students and visitors. Policy notes that staff are directed to UP Education's policies. References to staff and the workplace have been removed to reflect the change in scope.
