Adelaide Central School of Art

Sexual Assault and Sexual Harassment Policy and Procedure

Policy Id	A007
Previous Version	10 April 2018, 17 June 2019
Current version	Approved by Board of Governors, 29 July 2024
Scheduled review date	July 2027
Threshold Standard	2.3.1 – 2.3.5
Responsible person/s	Chief Executive Officer
Appendix A	Full list of amendments
Appendix B	Contact Information for Support Services

1. Introduction

The Adelaide Central School of Art ('the School') is committed to providing a safe and supportive working and learning environment for students, staff and the broader School community.

All members of the School community are responsible for contributing to a culture of mutual respect and an environment that is free of sexual assault and sexual harassment.

2. Purpose

The purpose of this policy is to:

- Set out the meaning of sexual assault and sexual harassment
- Ensure that all members of the School community are aware of the policy on sexual assault and sexual harassment
- Outline the rights and responsibilities of all members of the School community in ensuring an environment that is free of sexual assault and sexual harassment.
- Provide information on internal and external confidential support services
- Provide clear and accessible pathways for disclosures and reporting incidents of sexual assault and sexual harassment
- Outline the School's responsibility in providing education and training in preventing and responding to sexual assault and sexual harassment
- Integrate the policy into the culture of the School

3. Scope

This policy applies to all staff members, students, customers, exhibiting artists, volunteers, and visitors when they are engaged in the School's activities and/or on the School's premises.

4. Definitions

4.1 Sexual Assault Definition

Sexual assault is the term used in this policy for any unacceptable sexual and/or physical behaviour that is a criminal offence
Sexual assault means any sexual act that a person does not consent to, including
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

A person will be considered to have sexually assaulted another person if

a) the other person did not consent to the first person's actions; and
b) the first person knew that the other person did not consent or should reasonably have known that the other person did not consent.

4.2 Sexual Harassment Definition

Sexual harassment is any form of unwanted or unwelcome sexual behaviour, where it is reasonable to expect that the other person would be offended, humiliated or intimidated.

Sexual harassment can be experienced by anyone regardless of their sex, gender identity, or sexual orientation.

Sexual harassment is not interaction, flirtation or friendship that is mutual or consensual.

Sexual harassment can take many forms. The Australian Human Rights Commission provides the following examples:

- staring or leering;
- unnecessary familiarity, such as deliberately brushing up against a person or unwelcome touching, hugging or kissing;
- suggestive comments or jokes;
- insults or taunts of a sexual nature;
- intrusive questions or statements about a person's private life;
- displaying posters, magazines or screen savers of a sexual nature;
- sending sexually explicit emails or text messages;
- inappropriate advances on social networking sites;
- accessing sexually explicit internet sites;
- requests for sex or repeated unwanted requests to go out on dates.

4.3 Definition of consent

Consent to sexual activity is defined in s46 of the Criminal Law Consolidation Act 1935 (SA) as free and voluntary agreement.

For the purposes of this policy, a person is not able to freely and voluntarily consent to a sexual act when they are:

a) Forced into the act or force is threatened or implied
b) Threatened with denigration, humiliation, disgrace or harassment
c) Detained or held against their will
d) Asleep or unconscious
e) Intoxicated or affected by drugs
f) Physically, mentally or intellectually impaired and therefore incapable of freely or voluntarily agreeing
g) Unable to understand the nature of the activity
h) Unclear about the identity of the person performing the act
i) Mistaken about the nature of the activity
j) Pressured to engage in the sexual act by another person who is in a position of power or authority over them

The fact that a person does not say 'no' to, or does not physically resist, a sexual act does not mean that they consent to it.

A person is free to withdraw their consent at any time prior to or during a sexual act, for any reason.

4.4 Stakeholder Definitions

Customer refers to any person that buys goods or services from the School, including for the purposes of this document students participating in the School's Public Programs.

Exhibiting artist refers to any artist engaged by contractual agreement in the School's exhibition programs.

Staff refers to a person performing work for School, including permanent, contracted and casual employees.

Student refers to a student enrolled in an Award Course at the School.

Volunteer refers to any person that is engaged by the School in a voluntary role, including but not limited to members of the School's Board of Governors and Academic Board.

4.5 Other Definitions

Award Courses refer to the School's accredited degree programs: Associate Degree of Visual Art, Bachelor of Visual Art, and Bachelor of Visual Art (Honours).

Complainant refers to a person who has lodged a report of sexual harassment.

Public Programs includes, but is not limited to, Short Courses, Masterclasses, Outreach, and other teaching and learning activities undertaken by the School for a public audience.

5. Policy

The Adelaide Central School of Art ('the School') is committed to providing a safe and supportive working and learning environment for students, staff and the broader School community.

All members of the School community are responsible for contributing to a culture of mutual respect and an environment that is free of sexual assault and sexual harassment.

The School has zero tolerance towards sexual assault and sexual harassment and will take action against anyone found to be in breach of this policy.

The School is committed to meeting its obligations under the state and federal equal opportunity laws including the *Commonwealth Sex Discrimination Act 1984* and the *South Australian Equal Opportunity Act 1984*. The School will act in accordance with the spirit and requirements of the legislation.

The School recognises its positive duty under the *Commonwealth Sex Discrimination Act 1984* to take proactive and meaningful action to prevent sexual assault and sexual harassment from occurring in the work and learning environment.

All members of the School community are expected to adhere to the Respectful Behaviour Code of Conduct, which can be found on the School's website.

6. Responsibilities

6.1 The Chief Executive Officer (CEO) is responsible for ensuring that the Sexual Assault and Sexual Harassment Policy is implemented by the School.

6.2 Contact Officers are responsible for being the primary point of contact for people wishing to report incidents of sexual assault and sexual harassment and for working with relevant staff members to respond to such reports.

6.3 The Wellbeing and Safety Working Group will be responsible for developing and implementing awareness raising and education activities for administration staff, academic staff, and students enrolled in the School's accredited courses.

6.4 All members of the School community are responsible for working in accordance with the policy to ensure an environment free of sexual assault and sexual harassment.

7. Confidential Disclosures and Support

Students and staff members who have experienced sexual assault or sexual harassment have a right to decide whether they want to disclose the incident to the School or not.

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:

Internal

Students and staff members can confidentially disclose incidents of sexual assault and sexual harassment to the School's counselling service.

A person who makes a Confidential Disclosure will not be required to submit a Report to the School (see Item 8. Reports). However, the counselling service is responsible for informing that person of the policy and that they have the option of reporting the incident/s to the School.

The School counselling service is responsible for notifying the CEO of any disclosures of sexual assault or sexual harassment that may require action in order to maintain a safe workplace.

The School counselling service will comply with mandatory reporting requirements, for example incidents involving students under the age of 18.

To contact the School's counselling service, please refer to Appendix B: Contact Information for Support Services.

External

1800RESPECT is a free and confidential 24/7 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 (online chat sessions available)
App: https://www.1800respect.org.au/daisy/

Victims of Crime can assist with incidents relating to forensic procedures:
http://www.voc.sa.gov.au/forensic-procedures

Yarrow Place provides free and confidential service for people aged 16 years and over at the time of sexual assault:
Phone: (08) 82268777 After hours phone: (08) 82268787
Web:
https://www.sahealth.sa.gov.au/wps/wcm/connect/Public+Content/SA+Health+Internet/Health+services/Yarrow+Place+services/

SHINE SA provides sexual health education, early intervention, health promotion, clinical services and therapeutic counselling. This organisation has dedicated services for LGBTQI+ people.

Phone: 1300 794 584
Web: https://www.shinesa.org.au/

8. Reports

Reports differ from Confidential Disclosures in that the incident will be recorded, confidentially communicated to appropriate staff members, and responded to through actions undertaken by the School.

The School encourages the prompt reporting of sexual misconduct to maximise the School's ability to respond effectively.

Students and staff members who have experienced sexual assault or sexual harassment have a right to decide whether they want to report the incident to the School or not.

Students and staff members who have experienced sexual assault or sexual harassment should report the incident (rather than make a disclosure) if they want to School to investigate or to take specific action. The School reserves the right to respond to confidential disclosures with action where it is deemed that action is required to maintain a safe workplace.

If a student or staff member makes a complaint of sexual assault or sexual harassment by a visitor or other person over whom the School has no jurisdiction, the School may seek assistance from another organisation or refer the complaint to an external agency for resolution.

8.1 Contact Officers

A person wishing to report sexual assault or sexual harassment can do so by contacting a designated Contact Officer. For further information, please refer to Appendix B: Contact Information for Support Services.

8.2 General procedures

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

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

- Internal and external support services
- The School's procedures for responding to reports of sexual assault and sexual harassment in accordance with the appropriate policies.

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

8.2.1 Responding to reports of sexual harassment

The School 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 School and agreed upon by both the complainant and respondent.

  In no circumstances 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 of this investigation, sexual harassment is found to have occurred, the School will take disciplinary action as necessary. Examples of possible consequences include termination of employment or engagement, or preclusion or exclusion from the School's activities or premises.

The School will comply with all mandatory reporting requirements, for example incidents involving persons under the age of 18.

The School may choose to refer reported criminal conduct to the South Australian Police.

The School's response to reports of sexual harassment will take into account these general guidelines, in addition to other relevant policies and procedures as outlined in Items 8.3, 8.4, and 8.5.

8.2.2 Responding to reports of sexual assault

Upon receiving a report of sexual assault, the Contact Officer will inform the CEO and provide the complainant with information and advice on:

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

The School supports the right of students and staff who have experienced sexual assault to decide whether they want to report the incident to the Police, or not.

A student or staff member who has experienced sexual assault may make a disclosure or complaint to the School, but not report the incident to the Police. Alternatively they may decide to report sexual assault to the Police, but not to make a disclosure or complaint to the School.

If a student or staff member who has experienced sexual assault decides to report the incident to the Police, the School will suspend any investigation and action in response to the sexual assault pending completion of the criminal process. Any such deferral will not limit any urgent interim measures 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 School 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 School will conduct a formal internal investigation.

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 School will take disciplinary action as necessary. Examples of possible consequences include termination of employment or engagement, or preclusion or exclusion from the School's activities or premises.

The School will comply with all mandatory reporting requirements, for example incidents involving persons under the age of 18.

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

The School's response to reports of sexual assault will take into account these general guidelines, in addition to other relevant policies and procedures as outlined in Items 8.3, 8.4, and 8.5.

8.3 Students

Reports of sexual assault and sexual harassment made by students enrolled in the School's Award Courses will adhere to the guidelines of this policy and the *Student Grievance Policy and Procedures*.

Reports of sexual assault or sexual harassment made against students enrolled in the School's Award Courses will adhere to the guidelines of this policy and the *Student Misconduct Policy*.

8.4 Staff

Reports of sexual assault or sexual harassment made by staff members will adhere to the guidelines of this policy and the *Fair Work Act 2009*.

8.5 Other stakeholders

Reports of sexual assault or sexual harassment made by all other members of the School community, including customers, exhibiting artists, volunteers, and visitors will adhere to the guidelines of this policy.

Reports made against a customer, exhibiting artist or volunteer will adhere to the guidelines of this policy and the relevant service contract or agreement.

9. Opportunity to be heard

9.1 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.

9.2 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.

9.3 Complainants and respondents may be accompanied to any meeting by a support person, if they wish.

9.4 At no time will be 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.

10. Interim measures

10.1 In order to minimise the potential for harm to any person, the CEO may take interim measures against a student or staff member in response to a report of sexual assault or sexual harassment while investigations are underway.

11. Vexatious complaints

11.1 A student or staff member must not make a vexatious or malicious complaint of sexual assault or sexual harassment.

11.2 Making a vexatious or malicious complaint may result in disciplinary action according to the Student Misconduct Policy and Procedures or the relevant Staff Agreement.

11.3 A complaint will be considered vexatious or malicious if the student or staff member makes it:
a) knowing it to be false
b) for the primary purpose of damaging the School or the person against whom the complaint is made

12. Confidentiality

12.1 Except as provided in subclause 8.2.2, the School will keep confidential all information relating to a disclosure or report of sexual assault or sexual harassment, unless the complainant consents to disclosure of part or all of the information for a specified purpose.

12.2 Complainants and respondents must keep confidential the fact that a complaint has been made and all information relating to the report, the identity of people involved, and any information relating to the investigations.

12.3 Complainants and respondents may disclose information in subclause 12.2 in order to obtain support or advice from immediate family members, a qualified counsellor or psychologist, a lawyer, or the Police.

13. **Prevention**

The School is committed to taking proactive and meaningful action to prevent sexual assault and sexual harassment from occurring in the work and learning environment through:

13.1 Policy Education

13.1.1 All members of the School 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.

13.1.2 All members of the School community will be informed of the School's Respectful Behaviour Code of Conduct and ways to access support. This will be achieved through ongoing awareness-raising activities.

13.1.3 Students will be informed of the policy and ways to access support at orientation and through regular student newsletters.

13.1.4 Administration and academic staff will be made aware of this policy and the School's Respectful Behaviour Code of Conduct upon induction.

13.2 Education and Training

13.2.1 The CEO and Contact Officers will complete training at regular intervals.

13.2.2 Education and awareness activities on sexual harassment, sexual assault, and consent will be provided to students enrolled in the School's accredited programs, administration staff, and academic staff at regular intervals. These activities will be developed and monitored by the Safety and Wellbeing Working Group.

14. Related Documents

Student Grievance Policy and Procedures
Student Misconduct Policy and Procedures
Child Safety Policy and Procedures

APPENDIX A: Policy Amendments

1. Version 1: Approved by the Board of Governors on 10 April 2018
2. 17 June 2019: Revised the Sexual Harassment Policy to incorporate sexual assault. Inserted new sections: 4.1, 8.2.2, and sections 9 – 12.
3. Minor amendment: update to external services in Item 7 and Appendix B. 28 February 2020.
4. Update to Contact Officers in Appendix B. 4 August 2020.
5. Update to Contact Officers and Internal counselling service. 27 July 2023.
6. Review and update as per policy review cycle. Inclusion of positive duty legislation and expanded section on prevention. July 2024.

APPENDIX B: Contact Information for Support Services

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:

Internal

Adelaide Counselling Practice
Book an appointment via the website or call (08) 8237 0509.

External

1800RESPECT is a free and confidential 24/7 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
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Victims of Crime can assist with incidents relating to forensic procedures:
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Phone: (08) 82268777 After hours phone: (08) 82268787
Web:
https://www.sahealth.sa.gov.au/wps/wcm/connect/Public+Content/SA+Health+Internet/Health+services/Yarrow+Place+services/

SHINE SA provides sexual health education, early intervention, health promotion, clinical services and therapeutic counselling. This organisation has dedicated services for LGBTQI+ people.

Phone: 1300 794 584
Web: https://www.shinesa.org.au/

Reports

Reports differ from Confidential Disclosures in that the incident will be recorded, confidentially communicated to appropriate staff members, and responded to through actions undertaken by the School.

A person wishing to report an incident of sexual assault or sexual harassment can do so by contacting a designated Contact Officer.

Contact Officers

A person wishing to report an incident of sexual assault or sexual harassment can contact one of the following designated Contact Officers:

Andrew Herpich
Student Liaison Officer
Email: Andrew.Herpich@acsa.sa.edu.au
Phone: (08) 8299 7300

Anna O'Loughlin
Academic Administration Manager
Email: anna.oloughlin@acsa.sa.edu.au
Phone: (08) 8299 7300

Monte Masi
Academic Director
Email: monte.masi@acsa.sa.edu.au
Phone: (08) 8299 7300

Sasha Grbich
Lecturer, Art History & Theory Department
Email: sasha.grbich@acsa.sa.edu.au