

CHS Sexual Harassment Policy & Procedures

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1. Purpose

CHS is committed to creating an environment for staff, students and other stakeholders that is free from discrimination, harassment and bullying. This policy describes the College's approach to sexual discrimination including procedures for investigation and resolution of complaints.

2. Scope

This policy applies to CHS's staff, students, contractors and associates.

3. Definitions

Term	Definition
<i>Allegation</i>	An assertion of misconduct made against a student, staff, contractors and associates.
<i>Exclusion</i>	Permanent cancellation of a student's enrolment in their course and the termination of their rights and privileges as a student of CHS, including their right to re-apply for admission.
<i>Harassment</i>	Unwelcome behaviour that is offensive, belittling or abusive to another person or group of people.
<i>Non-academic misconduct</i>	With the exclusion of academic misconduct, any inappropriate, dishonest or criminal behaviour by a student that breaches the Student Code of Conduct, including and not limited to any behaviour which: <ul style="list-style-type: none">• prejudices the reputation of the College;• endangers the wellbeing of others; or• is punishable in a court of law
<i>Sexting</i>	Sexting is an activity that usually refers to: <ul style="list-style-type: none">• taking naked or partially naked photos or videos of yourself (posing in a sexual way) and sending the photos via the internet or mobile phones• receiving or forwarding naked or partially naked photos or videos through mobile phones, internet and social networking sites such as Facebook or Instagram. Sexting can include images from film, movies, videos, photos, and digital images sent by SMS, email, chat rooms and publishing on blogs.
<i>Suspension</i>	Temporary cancellation of a student's enrolment in a unit of study or course.
<i>Victimisation</i>	Subjecting or threatening to subject a person to personal or academic disadvantage as a direct result of their being subject to an allegation of misconduct, reporting or intending to report an act of misconduct, or in relation to their role in the investigation of an allegation of misconduct.
<i>Vilification</i>	A public act which incites others to treat a person badly, with contempt, or to severely ridicule.

4. Policy Statements

Sexual harassment is unlawful. CHS does not tolerate sexual harassment in any form. The senior leadership team and staff members have a responsibility to ensure that sexual harassment does not occur and to do everything they can to prevent abuse from occurring, to build a culture of respect, to work with relevant agencies, to support survivors of abuse and hold perpetrators to account.

Anyone found to have sexually harassed another person will be subject to disciplinary action that may include an apology, counselling, transfer of duties or dismissal. All serious instances of sexual harassment or any incidents of sexual assault or sexting will be reported to Police where there is reason to believe a criminal offence may have been committed. Any other reporting will be consistent with the requirements of privacy legislation.

Reports of sexual harassment will be treated seriously, confidentially and in a timely manner. Complainants have the right to determine how a complaint will be treated. They also have the right to have a supporter or representative chosen by them involved in the process and the option to stop the process at any time.

The alleged harasser also has the right to have a supporter or representative chosen by them present when he/she responds to the allegations made.

CHS does not condone any form of unfair treatment against staff, students, associates, contractors and others who make a complaint of sexual harassment. CHS executives have the duty to take immediate action against anyone who victimises or retaliates someone who has made a complaint of sexual harassment.

It is the CHS's policy to afford natural justice to any person involved in a dispute.

5. Definition of sexual harassment

Sexual harassment includes any unwelcome behaviour of a sexual nature that could be reasonably expected to make someone feel offended, humiliated or intimidated. It can be written, verbal or physical, and can happen in person or online. This may include (but is not restricted to):

- an unwelcome sexual advance
- a request for sexual favours
- unwelcome comments about someone's sexual orientation, gender or physical appearance
- leering and ogling
- sexually offensive comments, stories or jokes
- displaying sexually offensive photos, pinups or calendars, reading matter or objects
- sexual propositions or continued requests for dates
- physical contact such as touching or fondling, or unnecessary brushing up against someone
- sexting
- indecent assault or rape (these acts may constitute criminal offences).

Sexual harassment may occur between one staff member and another, between students and staff members, or between staff members, volunteers, suppliers or visitors. It may occur in workplace in CHS

premises or during other activities organised by the College. Note that sexually offensive social media entries or other forms of online harassments are unlawful.

6. Breach of this Policy

All CHS staff, contractors, agents, associates and students are required to comply with this Policy at all times. If a staff member breaches this Policy, he or she may be subject to disciplinary action. In serious cases this may include termination of employment. Agents and contractors (including temporary contractors) who are found to have breached this Policy may have their contracts with CHS terminated or not renewed.

If a person makes an unfounded complaint or a false complaint in bad faith (e.g. falsely accusing a staff member of a breach when the breach of policy has not occurred), that person may be disciplined and may be subject to a legal proceeding.

7. Responsible Officers

CHS's Welfare Officer is the first point of contact for confidential consultation and possible lodgement of complaints. The Welfare Officer has the responsibility for determining the level of the complaint, including whether or not it is a criminal matter that should be reported to police, discussing the complaint made with the complainant, confidentially ascertaining the complainant's preference for dealing with the complaint, offering advice, and ensuring the CHS process stated in this policy is followed to deal with the complaint. The Welfare Officer shall maintain appropriate records of the complaint and the steps taken to deal with the same. The Welfare Officer shall also inform the HR Director of the lodgement of complaints by a staff member and the Campus Manager in the case of a complaint by a student as soon as possible, especially in relation to matters that may involve criminality, but no later than three working days after the lodgement of the complaint.

The HR Director and the Campus Manager have the responsibility to follow up with the Welfare Officer to ensure all complaints have been thoroughly investigated following the due process. Where the complainant chooses to make a formal complaint, and in all matters involving criminality, the Principal must be informed. If the Welfare Officer is the subject of the complaint the complaint shall be referred to the Campus Manager in the case of students or the HR Director in the case of staff. If the Campus Manager is the subject of the complaint it should be referred to the HR Director in the case of staff and the Director of Administration and Student Services in the case of students.

In the case of any form of physical assault or threats of violence or other forms of menacing behaviour the complaint should be treated as emergency and reported to the police or appropriate law enforcement agencies while taking immediate action to support and protect the victim. In all such cases the critical incident form should be completed while ensuring appropriate steps are taken to preserve the relevant evidence.

8. Internal complaint

Any person who believes they have been harassed (the complainant) should:

- if comfortable to do so, inform the alleged harasser the behaviour is offensive, unwelcome, against the College policy and should stop.
- make a note of the date, time and location of the incident/s.
- if not comfortable to confront the alleged harasser or if the unwelcome behaviour continues, report the incident either in writing or by speaking to the Welfare Officer or, if the Welfare Officer is not available, the Campus Manager or the HR Director or their nominee.
- if this is inappropriate, speak or write to other senior executives at CHS, including Director of Administration and Student Services, Director of Studies, Dean or Principal.

CHS will follow the procedures set out below to investigate all complaints lodged with the College. The complainant has the right to request that the process be discontinued at any time.

9. Complaints Procedures

When a complaint is received, CHS will:

- obtain and record a full, step-by-step account of the incident/s
- ensure that the College process for handling the complaint is understood
- ascertain the complainant's preferred outcome, e.g. an apology, the behaviour to cease, a change in working arrangements, escalation
- agree on the next step: informal resolution or formal investigation or report to police
- keep a confidential record of all details of this discussion and subsequent steps in the process.

9.1 Informal resolution

Where a complainant has chosen informal resolution, following an informal process the Welfare Officer will:

- inform the alleged harasser of the complaint and provide an opportunity for them to respond
- ensure both parties understand their rights and responsibilities under CHS's policy
- if possible, mediate an outcome that is satisfactory for the complainant
- ensure that confidentiality is maintained
- follow up to ensure the behaviour does not re-occur.

In accordance with the CHS Student Non-Academic Grievance and Appeals Policy and Procedures (Section 5.1) for the informal complaint phase, the Welfare Officer should aim to resolve the complaint no later than ten (10) working days after the receipt of the complaint.

9.2 Formal investigation

If a formal investigation is requested by the complainant, or where a criminal offence may have been committed or if an informal resolution fails, the Welfare Officer will escalate the matter to the HR Director in the case of staff or the Campus Manager in the case of student complaints, or their nominee, who will bring the matter to the attention of the Principal who will appoint a person who has not been associated with the case to investigate the complaint and report back to the Principal. The following process shall be applied by the Investigator:

- afford natural justice to all involved
- separately interview all directly concerned
- separately interview witnesses
- keep records of the interviews and investigation
- ensure confidentiality and minimise disclosure
- make a determination as to whether there is sufficient evidence that a reasonable person could conclude, on the balance of probabilities (i.e. it's more likely than not), that an incident/incidents of sexual harassment or bullying or discrimination as defined by the legislation has occurred
- in such a case, determine appropriate action, which may include a change of duties for the harasser, change to working arrangements or, where the incidents were frequent and/or severe, dismissal, and or reporting of the matter to the police or appropriate agencies
- where it cannot be determined that an incident/incidents of harassment or bullying or discrimination as defined by the legislation has occurred, the Investigator may still recommend taking actions to ensure it does not occur and the College environment remain free from intimidation or bullying but these actions should not prejudice any party. The relevant College officer shall also continue to closely monitor the situation and provide support to the victim where required
- the Investigator needs to ensure that the action recommended meets the needs of the complainant and the College.

In the case of staff's complaints, the HR Director will discuss the outcomes with the complainant to ensure that needs are met, where appropriate. In the case of student complaints, the Welfare Officer or the Campus Manager will discuss the outcomes with the complainant and advise them of their rights in terms of lodging an external complaint. In both cases, discussions will occur within ten working days of the decision by the Investigator.

10. External complaint

If any of the parties are not satisfied with the manner in which the complaint has been handled or the outcome of the complaint process, they can arrange to escalate the issue to the Principal. The Principal may require that the complaint handling process and/or the outcome be reviewed by a second independent investigator. If a review is undertaken, the decision of the review will be deemed final.

The College will make every effort to resolve issues in-house wherever possible. Staff and students can seek the assistance of an outside agency if they feel that their complaint has not been adequately addressed.

Contacts for outside agencies

- Australian Human Rights Commission Toll Free: 1300 656 419
- Anti-Discrimination Board (NSW) Toll Free: 1800 670 812
- Equal Opportunity Commission (VIC) Toll Free: 1800 134 142
- Equal Opportunity Commission (SA) Toll Free: 1800 188 163
- Anti-Discrimination Commission (TAS) Toll Free: 1300 305 062
- Equal Opportunity Commission (WA) Toll Free: 1800 198 149
- Anti-Discrimination Commission (NT) Toll Free: 1800 813 846
- Anti-Discrimination Commission (QLD) Toll Free: 1300 130 670

11. Costs

In accordance with the CHS Non-Academic Grievance and Appeals Policy (Section 4.5), all the expenses that the College incurs in investigation of the sexual assault cases internally will be the College's responsibility, including the cost of any support provided by the College, such as the cost of counselling. All expenses students incur in terms professional fees or other expenses will be their responsibility.

Should the College be found negligent and responsible for any costs associated with a complaint, via mediation or determination by the respective intervention agencies, the College will reimburse student expenses up to a reasonable amount in line with the recommendations made by the external agency.

In the case of a court decision to award damages to the student or staff on account of a sexual harassment complaint then the College is obliged to either pay the damages (and presumably court and their costs) unless the College decides to appeal the judgement to a higher level court.

12. Variations

CHS reserves the right to vary, replace or terminate this policy from time to time.

13. Records

Records associated with this policy will be maintained according to the **Records Management Policy** and **Record Retention and Disposal Schedule**.

14. Related Documents

This policy should be read in conjunction with the:

- CHS Student Non-Academic Misconduct Policy & Procedures
- Student Code of Conduct
- CHS HR Manual
- CHS Student Grievance and Appeals Policy
- CHS Student Non-Academic Misconduct Policy & Procedures
- CHS Student Misconduct Committee Terms of Reference
- CHS Equity and Diversity Policy & Procedures

15. Related Legislation

Australian Federal Acts:

- Australian Human Rights Commission Act 1986
- Age Discrimination Act 2004
- Australian Human Rights Commission Act 1986
- Disability Discrimination Act 1992
- Racial Discrimination Act 1975
- Sex Discrimination Act 1984.

State Legislations:

- Australian Capital Territory – Discrimination Act 1991
- New South Wales – Anti-Discrimination Act 1977

- Northern Territory – Anti-Discrimination Act 1996
- Queensland – Anti-Discrimination Act 1991
- South Australia – Equal Opportunity Act 1984
- Tasmania – Anti-Discrimination Act 1998
- Victoria – Equal Opportunity Act 2010
- Western Australia – Equal Opportunity Act 1984