



**PREMIUM-ENGLISH FOR ACADEMIC REQUIREMENT  
(PEAR) AUSTRALASIA LLP**

**SEXUAL MISCONDUCT PREVENTION AND RESPONSE POLICY AND PROCEDURES**

<b>Policy Statement</b>	This policy and procedure outlines how the Academy manages the prevention of sexual misconduct and provides the procedure for responses to disclosures of sexual misconduct.
<b>Responsibility Implementation</b>	<b>for</b> Principal Administrator
<b>Compliance Monitoring</b>	<b>and</b> Principal Administrator and Executive Committee and Board of Directors

**Purpose**

To provide clear guidance to staff and students on the Academy’s 'Zero Tolerance' towards sexual misconduct and the processes enacted by the Academy’s as preventative measures. To provide clear guidance for staff and students to appropriately respond to disclosures and reports of sexual misconduct.

**Scope**

This Policy applies to the following:

- all enrolled students of the Academy
- all employees of Academy
- former students and students currently on leave, where the behaviour governed by this Policy occurred whilst they were enrolled. (When a former student reports an incident of sexual misconduct, the Academy may decline to undertake a misconduct investigation but may refer the former student to support services within the wider community).

Applying the aforementioned list in respect of sexual misconduct occurring:

- on Academy campuses
- in virtual spaces (including online forums, communities, and platforms) arranged or facilitated by the Academy
- whilst using the Academy's Information and Communication Technology (ICT) resources
- at premises in which research study or work integrated learning is undertaken as arranged by the Academy
- whilst staff or students are representing the Academy

### Outside of Scope

Where sexual misconduct is disclosed or reported as occurring outside the scope of this policy - for example, at a private venue or on an occasion unconnected with the Academy, the matter will not be investigated by the Academy as a potential student or staff misconduct issue, however support services and referrals will be offered as appropriate.

### **Aim**

This policy aims to:

- a. support a work and study environment free from sexual misconduct where staff and students are treated with dignity, courtesy and respect
- b. take a 'support first' approach to allegations of sexual misconduct so that staff and students can access
- c. the advice and support services they need
- d. encourage the reporting of behaviour which breaches this policy
- e. explain the difference between disclosures and reports of sexual misconduct
- f. encourage safe active bystander intervention.

### **Definitions**

#### **Active Bystander Intervention**

Means seeing and recognising a potentially harmful situation and choosing to respond in a safe way that could prevent or stop the harm from happening or continuing.

## **Consent**

A person consents when they freely and voluntarily agree to behaviour, understanding what they are doing and who they are doing it with. A person can't consent if they are:

- asleep or unconscious
- significantly affected by drugs or alcohol
- intimidated, coerced or threatened
- held against their will, or
- tricked, or under a mistaken belief, about the identity of the other person involved.

A person cannot consent if they lack the capacity to understand what is taking place because of a cognitive disability, or because they are under 16. It's important to understand that a person might not consent to behaviour even though they were, or are, in a relationship with that person.

## **Disclosure**

A disclosure of sexual misconduct is where a person affected tells another person about an incident that happened to them or that they have witnessed or become aware of.

## **Report**

A report is an official notification to the Academy of sexual misconduct for the purpose of investigation made by a person affected or someone on their behalf in line with the Complaints and Appeals Policy and Procedures.

## **Sexual assault**

Occurs when a person is forced, coerced, or tricked into sexual acts against their will or without their consent, or if a child or young person under 18 years of age is exposed to sexual activities.

## **Sexual Harassment**

Any unwanted, unwelcome, or uninvited behaviour of a sexual nature which a person should expect will make the recipient feel humiliated, intimidated, or offended. Sexual harassment can take many different forms and may include physical contact, verbal comments, jokes, propositions, the display of offensive material or other behaviour which creates a sexually hostile working or study environment.

## **Sexual misconduct**

Includes sexual harassment or sexual assault, indecent assault, an act of indecency, conduct involving child abuse material, making, or distributing sexually explicit photos or videos, or certain other behaviours of a sexual nature.

## PROCEDURES

### 1.0 Zero Tolerance

Sexual misconduct is unacceptable at the Academy. The Academy's Governing Board being the governing body and its sub-committees, Executive Committee and Academic Council with devolved endorsement authority, are committed to the wellbeing and safety of all staff and students. The Academy has a Sexual Misconduct Taskforce chaired by the Principal Administrator to oversee the implementation of this Policy, Procedures and related investigations.

The Academy enforces a **Zero Tolerance** towards sexual misconduct.

This Policy should be read in conjunction with the following existing and Procedures:

- **Complaints and Appeals Policy and Procedures**
- *Provides formal complaint mechanisms and procedures, both internal and external, with an explanation on procedure and timeframes.*
- **Critical Incident Policy and Procedures**
- *Provides a systematic and clear process that protects the interests and welfare of all individuals who are involved in a critical incident- inclusive of sexual assault.*
- **Staff Misconduct Policy and Procedures**
- *Provides formal complaint and management mechanisms and processes for cases of staff misconduct.*
- **Student Suspension and Cancellation of Enrolment Policy and Procedures**
- *This policy outlines the procedure students and staff take to allow a suspension of studies in extenuating circumstances.*
- **Workplace Health and Safety Policy and Procedures**
- *Reinforces the Academy's zero tolerance with respect to sexual harassment and includes information on staff and students' responsibilities.*

### 2.0 Preventative Measures

The Academy's Sexual Misconduct Taskforce will continue to focus attention on developing and implementing a range of prevention strategies that are intended to address the area of risks to any Academy stakeholder in the prevention of the potential for experiencing sexual misconduct. The Academy recognises that it is impossible to eliminate the risk of incidents of sexual misconduct in any community. However, the Academy intends to give these matters priority attention when such incidents are disclosed or reported. The Academy's primary concern will be for the welfare of those who are impacted within the scope of this policy and will seek to implement strategies to prevent reoccurrence.

Academy students are advised on possible actions they can take, the staff they may contact and the support services that are available and accessible if their personal circumstances are having an adverse effect on their education. The Academy promotes and fosters a culture of a safe environment, including advising students and staff on possible actions they can take to enhance safety and security on campus and extends to awareness of their safety when in public.

### **3.0 Supporting people who have experienced sexual assault or harassment**

The Academy provides training to staff and focus of attention is given to familiarity with the Academy's Policies and Procedures. This information is intended to support and enable them to take appropriate action and refer students to the correct service or contact person if incidents are reported to them.

The safety and wellbeing of the person disclosing or formally reporting sexual assault or sexual harassment is the priority of the Academy. Staff and students can support a person who has disclosed an experience of sexual assault or sexual harassment by:

- a. listening without interrupting
- b. letting them express how they feel and respecting the words they use in reference to the incident
- c. letting the person know they believe what the person is telling them and acknowledging their distress
- d. letting the person know that the incident was not their fault
- e. respecting their decisions
- f. directing them to the available support services.

### **4.0 Active Bystander Intervention**

The Academy encourages and values safe active bystander intervention by members of the Academy community to prevent or stop sexual assault and sexual harassment from occurring or continuing.

The steps involved in safe active bystander intervention are:

1. noticing the situation - paying attention to what is going on nearby
2. deciding if it is a problem - investigating whether someone might need help, and checking with people around if unsure
3. accepting responsibility to take action - not assuming someone else will do something
4. making a plan to step in - indirectly or directly confronting the issue, without being aggressive or putting oneself or others in danger.

### **5.0 Disclosures and Reports of Sexual Misconduct**

The Academy seeks to provide effective and appropriate responses to incidents of sexual misconduct disclosed or reported. All reports within the scope of this policy will be promptly investigated by the Academy's Sexual Misconduct Taskforce.

The privacy of the person filing a report and the person under investigation shall be respected at all times consistent with the obligation to conduct a fair and thorough investigation. No Complainant, Appellant or Respondent will be victimised or discriminated against in the course of the carrying out of the complaints and appeals or misconduct processes, either internal or external.

**NOTE:** The Academy's formal investigations process is not a substitute for a criminal process. Matters of a criminal nature, such as sexual or physical assault should be reported to the relevant authority.

**Staff disclosures and reporting** is handled in accordance with the Academy's Staff Code of Conduct. Staff acting with disregard to any of the Academy's policies and procedures may be subject to disciplinary action, from a written warning to termination, depending on the severity of the offence and will be appropriately managed.

**Student disclosures and reporting** is referred to the Student Engagement and Wellbeing Coordinator *in the first instance*, who is the first responder trained to guide students through the Academy's processes and to refer to relevant support services. The Student Engagement and Wellbeing Coordinator is a member of the Sexual Misconduct Taskforce and will refer cases to the Chair, where they are within the scope of this policy.

Reports of sexual misconduct will be handled in accordance with the Academy's Complaints and Appeals Policy and Procedures.

Students can contact the Student Engagement and Wellbeing Coordinator on campus during office hours or by direct email: [oetcoaching@pearacademy.in](mailto:oetcoaching@pearacademy.in)

Students acting with disregard to any of the Academy's policies and procedures may be subject to disciplinary action, from a written warning, suspension or termination of enrolment, depending on the severity of the offence.

## **6.0 Critical Incidents and Emergencies**

Critical incidents are handled in accordance with the Academy's *Critical Incident Policy and Procedures*.

In the case of a critical Incident the Critical Incident Policy & Procedures is enacted and the Emergency Contact List (Policy Appendix 1) is used for escalation and appropriate handling of the incident, in collaboration with the members of the Sexual Misconduct Taskforce.

## **7.0 The Academy's Obligations**

The Academy is obliged to report to the Police information which might materially assist the apprehension of an offender or the prosecution or conviction of an offender of a serious criminal offence. The Academy may also initiate urgent interim measures, such as restricting any person's access to campus buildings and/or the Academy's property (where there is an immediate threat to the safety of any person), temporarily suspending a person's enrolment or temporarily suspending a person from specified activities and/or positions of leadership.

## 8.0 Sexual Misconduct Taskforce

The Academy's Sexual Misconduct Taskforce is responsible for:

- Investigating and responding to reports of Sexual Assault and Sexual Harassment (SASH)
- Related policy and procedure implementation and reviews
- Staff and student training/ awareness
- Managing contact with External Support Services
- Completing reporting obligations

### Sexual Misconduct Taskforce members:

- Principal Administrator
- Chair Academic Council
- Member of the Board of Directors
- Student Engagement and Wellbeing Coordinator

## 9.0 External Services

Staff and students in India should access the following external services as appropriate:

- National emergency number/reporting a crime 112
- Police 100
- Ambulance 102
- Women Helpline 1091
- Women Helpline - (Domestic Abuse) 181
- Attending a police station in person

<b>Document Title</b>	SEXUAL MISCONDUCT PREVENTION AND RESPONSE POLICY AND PROCEDURES
<b>Date Compiled</b>	4 December 2021
<b>Author</b>	Hank Duyverman
<b>Due Date for Review</b>	December 2022
<b>Version</b>	1.0
<b>Approved by</b>	Executive Committee
<b>Meeting Date</b>	
<b>Date Updated</b>	
<b>Reviewed by</b>	
<b>Version Control Update</b>	
<b>Amendments</b>	