POLICY RES 003

SEXUAL ASSAULT AND SEXUAL HARASSMENT

Policy & Procedures

Final Draft – May 2025

St Albert's College

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1. OVERVIEW AND SCOPE

1.1. St Albert's College is committed to the creation of an environment that is free from instances of sexual assault and sexual harassment.

1.2. This document sets out the college's policy on Sexual Assault and Sexual Harassment and outlines the appropriate procedures in response to incidents of sexual misconduct.

1.3. This document does not apply to instances of student or staff bullying or harassment of a non-sexual nature.

1.4. This policy applies to disclosures and complaints made by students who may have experienced sexual harassment or sexual misconduct.

1.5. The rights and obligations of students under this policy are in addition to the rights and obligations set out in the Student Code of Conduct and Conduct Policy and those expectations of students contained in the University of New England Residential Code of Conduct and Sexual Harm and Gender Based Violence Prevention, Early Intervention, and Response Policy.

1.6. Instances of sexual assault or sexual harassment reported to have happened at a third-party site such as a private venue, event, or occasion not connected with St Albert's College may still be referred to the University of New England's Student Grievance Unit or the Police as an obligation of proactive care.

1.7. This policy is to operate in a spirit of co-operation with the University of New England – where appropriate, matters will be referred to the UNE Student Grievance Unit.

2. PRINCIPLES AND DEFINITIONS

2.1. Consent is a mutual agreement between individuals to participate in sexual activities. It must be given willingly and actively, and cannot be granted by someone who is intoxicated or underage. Consent is specific, meaning agreeing to one activity does not imply agreement to others, and it is reversible, meaning it can be withdrawn at any time. Consent cannot exist when a person:

- is under the lawful age of consent as specified in Australian law
- is unlawfully detained
- is under duress or is forced
- is asleep or unconscious
- is intoxicated to the point of being unable to give full consent
- is incapable of understanding that nature of the activity
- has mistaken belief about the identity of the other person or is mistaken about the nature of the activity
- lacks the capacity to understand what is taking place due to an intellectual disability

2.2. Complainant means a person reporting an instance of sexual assault or sexual harassment.

2.3. First Responder means any staff member or member of the Student Leadership Team who has been approached by a complainant.

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2.4. Gender-based violence (GBV) encompasses harmful actions directed at individuals or groups based on their gender. It stems from gender inequality, power abuse, and harmful societal norms. The term highlights that structural gender-based power imbalances put women and girls at heightened risk for various forms of violence. Although women and girls are disproportionately affected by GBV, men and boys can also be victims. Additionally, the term can describe violence against LGBTQI+ individuals, particularly when it relates to norms of masculinity, femininity, or gender expectations.

2.5. Violence against women and girls refers to any act of gender-based violence that causes, or is likely to cause, physical, sexual, or mental harm or suffering to women and girls. This includes threats, coercion, or arbitrary deprivation of liberty, whether in public or private life. Such violence encompasses, but is not limited to, physical, sexual, and psychological abuse within the family, the community, or by the State.

2.6. Sexual Harm: (definition from La Trobe University and the University of New England).

In a spirit of co-operation with the University of New England, St Albert's College uses the term "sexual harm" to describe all non-consensual sexual behaviours that make a person feel uncomfortable, frightened, distressed, intimidated, or harmed, whether physically or psychologically. Sexual harm occurs when there is no free agreement, or when someone is coerced or manipulated into unwanted sexual activity. It also includes situations where a person cannot give consent, such as when they are impaired by alcohol or drugs. Sexual harm encompasses behaviours like sexual harassment, sexual assault, and rape, and can occur both through technology and in physical spaces.

St Albert's College uses the term "sexual harm" to ensure that the College community can seek support for any concerning sexual behaviours, regardless of whether they meet the legal definitions of sexual assault, rape, or sexual harassment. The College aims to remove barriers to seeking support, ensuring that individuals do not feel their experiences are not serious enough or do not meet specific legal criteria.

2.7. Sexual Assault is where a person has sexual intercourse with another person without their consent and the other person does not consent to the sexual intercourse or could not provide consent. (Crimes Act 1900 NSW).

2.8. Sexual Harassment means any unwelcomed sexual advance, unwelcome request for sexual favours or any other unwelcome conduct of a sexual nature that does not include sexual intercourse or other physical sexual acts.

2.9. Respondent means an individual against whom an allegation of sexual assault or sexual harassment is made.

2.10. St Albert's College will not tolerate any instances of sexual assault or sexual harassment or behaviours that could reasonably be construed as an instance of sexual assault or harassment and will actively take steps to support victims and will cooperate with the University of New England and the police in instances where an investigation is to take place.

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2.11. Investigations relating to sexual assault and sexual harassment are completed by the Student Grievance Unit of the university. Instances of gender-based violence are investigated by either the Student Grievance Unit, the Executive Dean of St Albert's College or a delegated authority.

2.12. The college will empower our representatives and students to intervene, if it is safe to do so, or report any behaviour that may cause offense, distress, or harm to others.

2.13. The college will respond using an intersectional, trauma-informed, person-centered approach, ensuring those affected are empowered to make choices. They will be listened to, their wishes genuinely considered and prioritized, and their input will guide our actions whenever possible. Any deviations will be necessary and will minimize impact on those affected as much as possible.

2.14. The college will ensure our responses and processes prevent harm and promote healing and recovery to the greatest extent possible. At all stages of response, the college will emphasize physical, psychological, and emotional safety for everyone, including providing assistance to minimize trauma, distress, or any other risks to wellbeing arising from disclosures, reported incidents, or the handling of allegations.

2.15. The college will handle disclosures and reports of sexual harm and gender-based violence in a culturally sensitive and compassionate manner, recognizing the power imbalances that can exist in certain University relationships.

3. POLICY AND PROCEDURE

3.1. Identifying sexual assault and sexual harassment

3.1.1. For the purposes of the procedures outlined below, the following will serve as a guide for determining what constitutes sexual assault:

a) rape (also called sexual assault) – the forced penetration of the vagina or anus of any person with any part of the body of another person or with any object, without the first person's free, voluntary, and enthusiastic consent.

b) unwanted oral sex – insertion of the penis into the mouth of another person, or use of the tongue or lips on the vagina, penis, scrotum or anus of another person, without their free, voluntary, and enthusiastic consent.

c) sexual touching – kissing or touching a person's body in a sexual manner, without their consent. This includes unwanted touching of a person's breast, buttocks or genitals.

d) sexual acts – doing an act of a sexual nature with or towards another person without their consent, or making another person do an unwanted act of a sexual nature, including, but not limited to:

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(i) a person showing another person their genitals ('flashing').

(ii) a person sending another person an unwanted still or moving image of their own or someone else's genitals or breasts.

(iii) making a person show another person their breasts, bottom or genitals.

(iv) masturbating in front of another person.

(v) pretending to masturbate in front of another person.

3.1.2. The following are examples of sexual assault:

- Two people in a relationship start engaging in sexual activity but Person A changes their mind and asks to stop. Person B refuses to stop and forces sexual activity.
- A Student taking advantage of another intoxicated student at a party by encouraging them back to their room and engaging in sexual activity when the student is unable to give free, voluntary, and enthusiastic consent due to being affected by alcohol.
- A staff member or student leader manipulates a student to engage in sexual acts in exchange for privileges.

3.1.3. For the purposes of the procedures outlined below, the following will serve as a guide for determining what constitutes sexual harassment.

a) staring or leering at a person in a sexual manner.

b) standing deliberately too close to someone or deliberately brushing against someone as you walk past.

c) displaying pornographic or sexually explicit material (such as posters or screen savers).

d) sending sexually explicit emails or SMS messages.

e) inappropriate advances on social networking sites.

f) sexual insults or taunting.

g) requests for sex or repeated unwanted requests to go out on dates or to 'hook up'.

h) making promises or threats in return for sexual favours.

i) intrusive questions or remarks about a person's sexual activities.

j) an offensive indecent gesture towards another person.

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3.1.4. The following are examples of sexual harassment:

- Hip thrusts directed at another individual;
- Hand gestures that simulate sex acts;
- Obscene gestures with the lips or tongue;
- Simulating groping or touching;
- Body language used to corner, trap or threaten someone;
- Suggestive facial expressions

3.1.5. Proactive Care

A) St Albert's College will continue to develop and implement a range of prevention strategies that are designed to raise awareness and address the risks to residents of experiencing or witnessing sexual assault or sexual harassment.

Prevention strategies include but are not limited to:

- A safe environment for students in all College venues and events.
- Relevant policy is accessible on the college website.
- Sexual assault and sexual harassment First Responder training for all staff.
- Relevant sexual assault and sexual harassment information prevention and report material is communicated during orientation each year and through a student's time at St Albert's College.

B) The College Executive Team and the People and Culture Committee review policies and practices related to sexual assault and sexual harassment, including strategy development and implementation, review of policies, systems, processes, and risk management activities, including risk assessments. Where appropriate, this is done in consultation with residents and staff.

3.1.6. Disclosures of sexual assault or sexual harassment

I. Students who have heard of, witnessed, or experienced sexual assault or sexual harassment, may wish to disclose information about the incident, even though they may not want it to be investigated or for the college to take any responsive action.

II. Students electing to make a disclosure of sexual assault or sexual harassment may later decide to make a complaint to St Albert's College about the same incident.

III. Students can elect to make disclosures anonymously at any time in writing or in person. They may choose to remain anonymous themselves or to not name the other individuals involved in an incident they have heard of, witnessed, or experienced. If coming forward in person, they may bring a support person. The First Responder and Executive Dean may also have a support person present.

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IV. Disclosures may be made to any staff member, who, as First Responder, will refer the student to the sash contact officer. In cases of sexual assault, the sash contact officer or the first responder, will determine whether the student requires emergency support and call the police if necessary and with the consent of the student.

V. Students may wish to disclose information to the First Responder only, who will still need to inform the Executive Dean at the earliest opportunity.

VI. The Executive Dean will offer further counselling support services to the student(s) via the first responder if necessary—and records the details in the SASH register.

VII. St Albert's College will treat all disclosures confidentially and escalate disclosures further to SGU (contrary to the wishes of the complainant) if there appears to be an imminent risk to student health or safety. In that case, the Executive Dean will inform the student who disclosed before referring the disclosure the University of New England for investigation.

3.1.7. Complaints of sexual assault or sexual harassment

I. Students who have heard of, witnessed, or experienced sexual assault or sexual harassment, may wish to lodge a complaint about the incident if they would like the incident to be referred to SGU for investigation.

II. Students can elect to make complaints anonymously at any time in writing or in person. If in person, they may bring a support person. The First Responder and College Principal/ Executive Dean may also have a support person present.

III. Complainants may choose not to name the other individuals involved in an incident they have heard of, witnessed, or experienced. However, St Albert's College is unable to investigate complaints where the complainant declines to provide information about the respondent. In such cases, the complaint will be treated as a disclosure.

IV. Complaints may be made to any staff member, who, as First Responder, will refer the student to the College Principal or Executive Dean.

V. Students who wish to speak only with the First Responder only, may request that the First Responder pass the complaint onto the College Principal or Executive Dean on behalf of the complainant.

VI. In complaints of sexual assault, the Executive Dean—or First Responder—will determine whether the student requires emergency support and call the police if necessary and with the consent of the student. The College Principal/Executive Dean or First Responder may also encourage the complainant to contact the police independently or offer to contact the police on their behalf.

VII. If the College Principal or Executive Dean also believes, on the basis of the complaint, that there is an existing danger to other students, they may inform the police, even without the complainant's consent. This is to ensure the safety of all students. When deciding whether to contact the police, the College Principal/ Executive Dean:

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- Evidence of a clear and unacceptable risk to the College or general community.
- Multiple disclosures, reports or complaints about the same person.
- The wishes of the person who has experienced the sexual harm.

If the police are called, the alleged perpetrator will also be informed of this action.

VIII. In complaints of sexual assault (not be reported to the police) and sexual harassment, the Executive Dean or College Principal will refer the complaint to the University of New England for investigation.

XI. During the investigation, the Executive Dean or College Principal may take some interim measures to ensure students' safety. Such measures will depend on the circumstances and may include (but are not limited to):

- Limiting a student's movements on campus.
- Prohibiting or restricting a student's contact with another student or staff member.
- Arrange re-assignment or suspension of leadership duties.
- Arrange re-allocation of a student's accommodation.

XII. These interim measures should not be interpreted as anticipating or revealing the outcome of the investigation and may need to be done in consultation with other relevant staff or the university, while always prioritising confidentiality.

XIII. If a case of sexual assault that was not initially reported to police has been proven, the police may be contacted to ensure the safety of students and to meet the College's legal obligations to report criminal acts (under NSW Crimes Act 1900). In this case, the points listed under section 3.4.7 (VII) will be considered and the College will inform the student and alleged perpetrator before calling the police.

3.1.9. Vexatious Complaints

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

II. For the purposes of this policy, a complaint will be considered vexatious or malicious if the student or staff member makes it:

(a) knowing it to be false; and

(b) for the primary purpose of damaging the reputation of the College or any individual.

III. Any vexatious complaints will be considered as Serious Misconduct and investigated by College Executive Committee under the Student Misconduct Procedures.

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4. AUTHORITY & COMPLIANCE

4.1. All investigations into incidents of sexual assault and sexual harassment, will trigger a review of the related policies and procedures.

4.2. All incidents of sexual assault and sexual harassment, whether reported as a disclosure or complaint, will be reported to the college board with all identifying features of staff and students not disclosed. Deidentified information of disclosures will also be provided to the University of New England with all identifying features of staff and students not disclosed.

4.3. The College Executive Team is responsible for reviewing this document annually.

4.4. The Executive Dean and College Principal is responsible for overseeing the implementation of this policy and procedures.

4.5. The Executive Dean is responsible for providing the St Albert's College Board with a report of disclosures and complaints of sexual assault and sexual harassment and actions taken.

4.6. All staff must be familiar with this policy and procedures, especially in the event of becoming a First Responder.

5. BENCHMARKING

5.1. This policy has been created in consideration of the following:

I. The University of New England, Sexual Harm and Gender Based Violence Prevention, Early Intervention, and Response Policy (2024)
II. TEQSA Good Practice Note, "Preventing and Responding to Sexual Assault and Sexual Harassment in the Australian Higher Education Sector", 9 July 2020.
III. Higher Education Standards Framework (Threshold Standards) 2021
IV. Campion College Australia, Sexual Assault and Sexual Harassment Policy 2024
V. Crimes (Domestic and Personal Violence) Act 2007
VI. The University of New England, Sexual Harm and Harassment Prevention and Response Policy 2023
VII. Australian Universities Accord - Final Report 2024
VIII. The RED Zone Report 2018
IX. Independent Review of Residential Colleges at the University of New England final report – Australian Human Rights Commission May 2019

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