

SEXUAL ASSAULT AND SEXUAL HARASSMENT POLICY

1. Purpose and Objectives

- 1.1 This policy aims to ensure a safe environment for students by expressing the principle that sexual assault and sexual harassment are unacceptable behaviours. It explains how students may report an incident of sexual assault and harassment and how Le Cordon Bleu Australia (LCBA) will respond.
- 1.2 The policy guides students to the support available to them if they experience sexual assault or sexual harassment.
- 1.3 The policy provides a framework for the prevention of sexual misconduct, LCBA's response to alleged sexual misconduct, and mitigation of negative consequences to students when sexual misconduct has occurred.

2. Scope

- 2.1 The policy applies to all LCBA students.
- 2.2 This policy addresses sexual assault and sexual harassment experienced by current students when they are engaged in activities facilitated or sanctioned by LCBA, including:
 - at a LCBA campus;
 - on a LCBA digital platform such as staff and student email accounts, online learning environments and social media;
 - industry placements;
 - field trips;
 - social events;
 - events such as career expos and open days.

3. Legislative

- Education Services for Overseas Students Act 2000 (Cth)
- Higher Education Standards Framework 2021 (Cth)
- National Code of Practice for Providers of Education and Training to Overseas Students 2018 (Cth)
- Privacy Act 1988 (Cth)
- Tertiary Education Quality and Standards Agency Act 2011 (Cth)
- State-based criminal laws and codes
- State-based work health and safety laws

4. Policy Statement

- 4.1 LCBA is committed to providing a safe environment for students and staff, and supports a culture of respectful personal behaviour among members of its community. LCBA does not tolerate any act of sexual assault or sexual harassment (also referred to in this policy as sexual misconduct).
- 4.2 LCBA recognises that sexual assault or sexual harassment can involve behaviour by, or towards, a person of any sex, gender, age or sexuality. It can occur between strangers or between people who know each other well, including intimate partners.

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5. Policy

- 5.1 LCBA aims to prevent sexual misconduct by providing information to students about sexual assault and sexual harassment, and the importance of consent. LCBA will continue to develop and implement a range of prevention strategies addressing the risk of students experiencing sexual misconduct.
- 5.2 LCBA provides students with the means to report experiences of sexual assault and sexual harassment.
- 5.3 LCBA puts in place processes to support recovery from the impact of sexual misconduct.
- 5.4 Sexual misconduct perpetrated by students in circumstances covered by the scope of this policy constitutes a breach of the [Student Code of Conduct](#).
- 5.5 LCBA takes all reports of sexual assault and sexual harassment seriously and responds in a way that:
- prioritises the safety of the person making the report;
 - takes the wishes of the person who experienced sexual assault and sexual harassment into account;
 - ensures procedural fairness;
 - ensures confidentiality and privacy according to the [LCBA Privacy Policy](#)
 - imposes a sanction if an investigation of a report conducted by LCBA concludes that a student or staff member has engaged in misconduct, in accordance with the [Student Code of Conduct](#), employment contract, or third-party agreement as applicable.
- 5.6 Where sexual misconduct occurs outside the scope of this policy, LCBA cannot investigate the matter as potential student or staff misconduct. However, LCBA provides support services to students affected by sexual assault or sexual harassment, wherever the misconduct occurred, in order to support student health and well-being.
- 5.7 LCBA staff are trained to receive reports of sexual harassment and sexual assault and to initiate LCBA's response to experiences of sexual misconduct. Investigators of reported sexual misconduct are independent, trained, and adequately resourced to conduct an effective and prompt investigation.
- 5.8 LCBA provides timely and easily accessible information for students about sexual assault and sexual harassment, explaining the notion of consent, describing appropriate behaviour and providing guidance about what to do if a student experiences sexual assault or sexual harassment, including on social media. LCBA raises student awareness of the link between the use of drugs and alcohol to sexual misconduct.
- 5.9 Students can report sexual assault or sexual harassment to a staff member of LCBA or one of its partner organisations. The staff member will direct the student to LCBA Student Services who will initiate a support response.
- 5.10 A formal report to the police is not required in order to access LCBA's reporting procedures.

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- 5.11 LCBA will usually not notify authorities in relation to a report of sexual assault or sexual harassment without the complainant's consent. However, LCBA will notify the appropriate authority when:
- 5.11.1 The report is made by or involves a person under the age of 18;
 - 5.11.2 There is a duty to protect the public;
 - 5.11.3 The report involves actions of a staff member who may have violated the law or committed misconduct.
- 5.12 Students who experience sexual assault or sexual harassment have the right to report their experience to the police. An investigation by LCBA into a report of sexual misconduct is not a substitute for a criminal process.
- 5.13 If there is a current police investigation or legal proceeding in relation to the student's report of sexual misconduct, these take precedence over any LCBA process.
- 5.14 There is no time limit on making a report of sexual assault or sexual harassment. If the alleged perpetrator is no longer a LCBA student or staff member of LCBA or its partners, the complainant will be provided with support and advice on their reporting options.
- 5.15 Reports of sexual misconduct are kept confidential, meaning that information contained in the reports or arising from subsequent investigations will be handled sensitively and with respect to the people whose identities can be deduced from the information.
- 5.16 Where a student is not satisfied with LCBA's response to a report of sexual assault or sexual harassment, they may lodge a complaint according to the [Student Complaints and Appeals Policy](#).
- 5.17 Where LCBA finds that a report is made unreasonably by the complainant, it may be dealt with according to the guidance on unreasonable complainant conduct in the [Student Complaints and Appeals Policy](#).
- 5.18 LCBA will facilitate access to broad, integrated support to those who experience sexual misconduct, including professional support services, to enable recovery and return to study.

6. Roles and Responsibilities

Roles	Responsibilities
Executive Dean	Respond to student reports of sexual misconduct where the alleged perpetrator is a staff member of LCBA
Program Managers	Cooperate with LCBA in response to student reports of sexual misconduct where the alleged perpetrator is a staff member of the Co-Delivery Partner
Registrar	Oversee the effective implementation of this policy Provide reports to senior management of LCBA



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Roles	Responsibilities
	Respond to student reports of sexual misconduct where the alleged perpetrator is another student, according to <i>the Student Code of Conduct</i> and <i>Student Critical Incident Policy</i>
Student Services Managers	Receive reports of sexual misconduct and refer them to the Registrar Provide support to students who have experienced sexual misconduct and/or refer to external agencies as required

7. Definitions

‘Consent’ is the free and voluntary agreement to willingly engage in sexual activity of any kind.

A person giving consent must be able to freely choose between two options: yes and no. Consent needs to be actively communicated. This means that there must be an understandable exchange of affirmative words which indicates a willingness to participate in mutually agreed upon sexual activity. It is not enough to say that an individual consented just because they did not refuse or resist.

Consent will not be considered to have been given where a person is incapable of consenting to the activity because they are asleep, unconscious, or affected by drugs or alcohol to the point of being incapable of giving free and voluntary consent.

Consent cannot be assumed where a person:

- is silent
- is not fighting back
- says ‘no’ or ‘maybe’
- is forced or coerced
- is threatened
- is manipulated by authority.

‘Complaint’ refers to a formal report of sexual misconduct made to LCBA under this policy, being made either by the person who experienced the harassment or assault or a bystander.

‘Complainant’ refers to a person who makes a formal or informal complaint of sexual misconduct under this policy.

‘Report’ refers to the provision of information about an experience of sexual misconduct to LCBA, which may be anonymous and does not necessarily constitute a formal complaint.

‘Respondent’ refers to the person the complaint is about.

‘Sexual assault’ is any sexual act inflicted on a person that they have not freely and voluntarily consented to, have withdrawn consent to, or occurs in circumstances where they are incapable of giving free and voluntary consent. It includes a variety of unwanted sexual behaviours, ranging from unwanted sexualised touching to sexual intercourse without consent.

Examples of sexual assault include:

- Forcing a person to engage in sexual activity when they have not verbally agreed to the activity

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- Refusing to stop engaging in a sexual activity when asked to stop, even if the person previously gave their consent and then changed their mind
- Engaging in sexual activity with a person who cannot give their consent because they are affected by drugs or alcohol, or are unconscious

‘Sexual harassment’ is any unwanted or unwelcome sexual behaviour, which makes a person feel offended, humiliated or intimidated. Sexual harassment is not interaction, flirtation or friendship that is mutual and consensual.

Examples of sexual harassment include:

- Staring or leering at a person in a sexual manner
- Deliberately standing too close to someone or brushing against someone
- Displaying pornographic or sexually explicit material (e.g. posters, screensavers)
- Inappropriate advances on social networking sites
- Sexual insults or taunting
- Requests for sex or repeated unwanted requests for dates
- Making promises or threats in return for sex
- Intrusive questions or remarks about a person’s sexual activities

‘Sexual misconduct’ – sexual assault and/or sexual harassment.

8. Related Documents

- LCBA Privacy Policy
- Student Code of Conduct
- Student Complaints and Appeals Policy
- Student Critical Incident Policy
- Student Welfare Policy
- Third party agreements with Co-Delivery Partners
- LCBA employment contracts and staff code of conduct

9. Implementation

- 9.1 The Registrar is responsible for ensuring that future major changes to this policy will be accompanied by a completed Implementation Plan, and presented with the policy to the Corporate Board.
- 9.2 The Implementation Plan will include a Communication Strategy that identifies key stakeholders and the requirements for effectively implementing and monitoring this policy.

10. Procedure

- 10.1 Students are provided with information about sexual assault and sexual harassment at Orientation, including how to report an experience of sexual misconduct
- 10.2 In the case of an emergency, students should contact police or ambulance. Students can also contact campus security.

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- 10.3 Students can make reports of sexual assault and sexual harassment to a staff member of LCBA or its Co-Delivery Partners. The staff member will refer the student to LCBA Student Services at the relevant campus.
- 10.4 Students may report on an anonymous basis, where either or both the complainant and respondent are not identified. However, anonymous reports may limit LCBA's ability to investigate and take disciplinary action.
- 10.5 Upon receiving a report of sexual misconduct by a student, LCBA Student Services will initiate a support response, which may include:
- support in managing the emotional impact
 - providing information about reporting options, rights and policies
 - support with decision making and referral to services
 - support with the reporting process.
- 10.6 Reports of sexual misconduct are immediately communicated to the Registrar, who will appoint an investigator.
- 10.7 If the alleged perpetrator is a student, the Registrar will oversee an inquiry into the report in accordance with the [Student Code of Conduct](#). The report will be investigated, an outcome determined and disciplinary action imposed as appropriate.
- 10.8 If the alleged perpetrator is a staff member of LCBA, the report will be investigated, an outcome determined and disciplinary action imposed as appropriate, according to the staff misconduct policy or employment contract as applicable.
- 10.9 If the alleged perpetrator is a staff member of one of LCBA's Co-Delivery Partners, the report will be investigated, an outcome determined and disciplinary action imposed as appropriate, according to the third-party agreement.
- 10.10 At the same time, the Registrar will refer to the [Student Critical Incident Policy](#) and will manage the report of sexual misconduct as a Critical Incident if required.
- 10.11 All parties have the right to be accompanied by a support person during interviews.
- 10.12 Records relating to the report of sexual misconduct are stored in the Sensitive Student Information file, where access is restricted to Student Services staff.
- 10.13 De-identified summary reports of sexual misconduct cases are provided to the Executive Dean and senior management of LCBA so that LCBA may improve student safety and wellbeing through strategies to prevent, investigate and resolve cases of sexual assault and sexual harassment.

11. Summary of changes since last review

Authored by	Description
K Williams (Registrar)	Policy name change from Sexual Harassment Grievance Policy to Sexual Assault and Sexual Harassment Policy Policy refocused towards SASH experienced by students, major changes throughout policy