

SEXUAL ASSAULT AND SEXUAL HARASSMENT POLICY

1. Purpose and Objectives

- 1.1 This policy aims to ensure a safe environment for staff and students by expressing the principle that sexual assault and/or sexual harassment are unacceptable behaviours. It explains how students may report an incident of sexual assault and/or sexual harassment and how Le Cordon Bleu Australia (LCBA) will respond.
- 1.2 The policy guides staff and students to the support available to them if they experience sexual assault and /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 both students and staff when sexual misconduct has occurred.

2. Scope

- 2.1 The policy applies to:
 - all students enrolled with LCBA
 - all employees of LCBA whether full time or part time
 - all contractors and consultants performing work with LCBA. These are collectively known as 'staff'.
 - attendees at events hosted by LCBA;
 - In some instances when staff or students are outside LCBA sites¹, the case may not be investigated by LCBA, but instead by the host organisation or other parties. In any circumstance, support services will be provided (ie in the scope of health and mental wellbeing) to the staff or student, wherever the misconduct occurred.²

3. Legislative Context

- 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. The organisation 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).

¹ Note LCBA site – for the purposes of this policy is a location where LCBA programs are delivered, and as listed on regulatory websites.

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- 4.2 LCBA recognises that sexual assault and/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.

5. Policy

- 5.1 LCBA aims to prevent sexual misconduct by providing information to students and staff 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 and staff experiencing sexual misconduct.
- 5.2 LCBA provides information to staff and students to support and guide them on how to report experiences of sexual assault and/or 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*. With staff members it is dealt with under disciplinary matters.
- 5.5 LCBA will take a zero-tolerance approach to sexual assault and/or sexual harassment.

Reporting

- 5.6 LCBA takes all reports of sexual assault and/or 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/or sexual harassment into account;
 - ensures procedural fairness;
 - ensures confidentiality and privacy according to the *LCBA Privacy Policy*;
 - there will also be a non-retaliation clause that guarantees individuals (either students or staff) reporting the incident will not face adverse consequences or discrimination for coming forward;
 - imposes a sanction if an investigation of a report conducted by LCBA concludes that a student or staff member has engaged in sexual misconduct, in accordance with the *Student Code of Conduct*, *Staff Misconduct Policy*, employment contract, or third-party agreement as applicable.
- 5.7 There are qualified LCBA staff who are trained to receive reports of sexual harassment and/or 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 Students can report sexual assault and/or sexual harassment to a staff member of LCBA or one of its partner organisations. For those students on industry placement, they can report incidents to the Industry Engagement department (refer to *Work Integrated Learning Policy*). The staff member will direct the student to LCBA Student Services who will initiate a support response.

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- 5.9 Staff can report sexual assault and/or sexual harassment to Human Resources (HR). For staff who are affected, they will be directed to the Employee Assistance Program, for more information staff to contact HR.

Authority and confidentiality

- 5.10 A formal report to the police is not required in order to access LCBA's reporting procedures.
- 5.11 LCBA will not usually notify authorities in relation to a report of sexual assault and/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 of care to protect the public;
 - 5.11.3 the report involves actions of a staff member or student who may have violated the law or committed sexual misconduct.
- 5.12 If there is a current police investigation or legal proceeding in relation to the student or staff members report of sexual misconduct, these take precedence over any LCBA process.
- 5.13 There is no time limit on making a report of sexual assault and/or sexual harassment. If the alleged perpetrator is no longer a LCBA student or staff member or its partners, the complainant will be provided with support and advice on their reporting options.
- 5.14 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.
- 5.15 LCBA will facilitate access to broad, integrated support to those who experience sexual misconduct, including professional support services, to enable recovery.

6. Roles and Responsibilities

Roles	Responsibilities
Human Resources (HR)	Responds to reports of sexual misconduct which involves LCBA staff. Immediately communicates any report of misconduct to the Legal and Compliance Manager.
Program Managers	Cooperates with LCBA in response to student reports of sexual misconduct where the alleged perpetrator is a staff member of the Co-Delivery Partner.
Legal and Compliance Manager	Oversees the effective implementation of this policy. Provides reports to senior management of LCBA Responds to reports of sexual misconduct and appoints an Investigator.
Student Services	Provides support to students who have experienced sexual misconduct and/or refer to external agencies as required.



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Roles	Responsibilities
	Immediately communicates any report of misconduct to the Legal and Compliance Manager.
Industry Engagement	For students on placement, provides support to students who have experienced sexual misconduct and/or refer to external agencies as required. Immediately communicates any report of misconduct to the Legal and Compliance Manager.
LCBA or Co-Delivery Partner Staff	Refers any reports from students to Student Services. Refers or provides any reports from staff to HR.

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.

‘Investigator’ refers to a person who investigates any instances of sexual assault and or sexual misconduct.

‘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

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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
- 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

Students

- LCBA Privacy Policy
- Student Code of Conduct
- Student Complaints and Appeals Policy
- Student Critical Incident Policy
- Student Welfare Policy
- Work Integrated Learning Policy

Staff

- LCBA Privacy Policy
- Third party agreements with Co-Delivery Partners
- Staff Critical Incident Policy
- Staff Misconduct Policy
- Work Health and Safety Policy
- LCBA employment contracts and staff code of conduct

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9. Procedure

- 9.1 Students and staff are provided with information about sexual assault and/or sexual harassment at Orientation (students) or Induction (staff), including how to report an experience of sexual misconduct.
- 9.2 In the case of an emergency, students and staff should contact police or ambulance. Students and staff can also contact campus security.
- 9.3 Any staff or student can make reports of sexual assault and /or sexual harassment to either a member of Student Services (for students), HR (for staff) or member of the senior leadership team.
- 9.4 Students and staff 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.
- 9.5 Upon receiving a report of sexual misconduct, LCBA Student Services (in the case of students) or HR (in the case of staff) 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;
 - medical support referral.
- 9.6 Reports of sexual misconduct are immediately communicated to the Legal and Compliance Manager, who will appoint an Investigator.
- 9.7 If the alleged perpetrator is a:
- 9.7.1 student: the Investigator 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.
- 9.7.2 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.
- 9.7.3 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.
- 9.8 At the same time, the Investigator will refer to the *Student Critical Incident Policy* or *Staff Critical Incident Policy* and will manage the report of sexual misconduct as a Critical Incident if required.
- 9.9 All parties have the right to be accompanied by a support person during the investigation.
- 9.10 Records relating to the report of sexual misconduct are stored in the Sensitive Student Information file, where access is restricted to Student Services staff and protected staff files managed by HR.



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- 9.11 De-identified summary reports of sexual misconduct cases are provided to the Chief Executive Officer and senior management of LCBA so that LCBA may improve student and staff safety and wellbeing through strategies to prevent, investigate and resolve cases of sexual assault and/or sexual harassment.

10. Summary of changes since last review

Authored by	Description
Legal and Compliance Manager	Policy updated to include Staff. Implementation section removed. QASG edits