

Purpose

This *Policy* describes the approach used by Sydney International School of Technology and Commerce (SISTC) to prevent and respond to incidents of discrimination, bullying, harassment, sexual misconduct, or violence occurring at, or connected with, SISTC.

Scope

This *Policy* applies to:

- all enrolled students and current staff using the physical and/or managed virtual environments provided or used by SISTC
- all individuals who interact with SISTC staff and students in these environments, such as visitors, alumni, contractors, business partners, and internship hosts.

A discrimination, bullying, harassment, sexual misconduct, or violence matter will not be investigated by SISTC if it is disclosed or reported as having occurred outside of these environments. However, SISTC will provide support services and referrals as appropriate. This information is provided in the *Student Portal* and the *Staff Portal*.

This *Policy* **does not** cover situations where a student or employee has a grievance about the legitimate and reasonable:

- allocation of classes, tutorials, group membership and grades
- performance management processes
- disciplinary action
- allocation of work in compliance with systems

These situations are covered by the *SISTC Student Rights and Obligations Policy*, the *SISTC Student Grievance, Complaints, and Appeals Policy*, the *SISTC Staff Rights and Obligations Policy and Procedures* and the *SISTC Staff Performance Policy*.

Key Definitions

Active bystander an individual who has seen and recognised a potentially harmful situation and is choosing to respond in a safe and lawful way to try to prevent or stop the harm from happening or continuing.

Bullying occurs when people repeatedly and intentionally use words or actions against someone or a group of people to cause distress and risk to their wellbeing. Types of bullying include:

- *Face-to-face bullying*, which involves physical actions occurring in SISTC physical environments, such as behaviour like punching, kicking, using rude gestures or nasty looks, or behaviour such as direct verbal actions, like name-calling and insults;
- *Covert bullying*, which means that this behaviour cannot be easily seen by others in SISTC physical or virtual environments, such as excluding or isolating people from groups or spreading lies or rumours;
- *Cyberbullying* occurs in SISTC-controlled virtual environments through using information or communication technologies, such as chat, text messages, email, and social media.
- *Occupational bullying*, which means that these behaviours may occur between employers and employees, or employees and other employees in the context of the *Workplace Health and Safety Act (NSW) 2011*, such as:

- verbal abuse;
 - assigning employees meaningless tasks unrelated to the job;
 - giving employees impossible assignments;
 - deliberately changing work rosters to inconvenience particular employees;
 - deliberately withholding information from a worker that is vital for effective work performance.
- *Workplace bullying* means repeated and unreasonable intimidatory behaviour which is considered to be inconsistent with the requirements of the SISTC staff supervision provisions, is directed towards a worker or a group of workers, or a student or a group of students, and creates a risk to health and safety.

Consent means that a person is able, and has freely chosen, to take part in sexual contact. Consent requires ongoing agreement, and it can be withdrawn at any time. Where consent is withdrawn, or cannot be given, sexual contact must stop.

Discrimination means to treat an individual less favourably because of an attribute they possess or to impose unreasonable terms or conditions with which individuals with a particular attribute are unable to comply. Attributes include:

- parental status
- pregnancy
- breastfeeding
- religious belief or activity
- political belief or activity
- relationship status
- gender
- lawful sexual activity
- sexual preference
- age
- race, nationality or ethnic origin
- disability or impairment
- trade union activity
- family responsibilities
- physical appearance (e.g. body shape and size)

Discrimination can be either *direct* or *indirect*:

- *direct* discrimination takes place when an individual is disadvantaged or treated less favourably than another person. Direct discrimination can occur regardless of the discriminator's motive and whether or not he or she is aware of the discrimination or considers the treatment less favourable
- *indirect* discrimination happens when a practice or policy appears to be fair because it treats everyone the same way but actually disadvantages people from a particular group

First Responders are not medical or counselling professionals but are trained to provide an appropriate initial response to an individual or bystander, including advice about available SISTC and external support services and the process for making a report.

Interim measures are temporary restrictions or requirements regarding who a student or staff member can contact, or how they can make contact, or where they can go on campus and at

what time(s). These restrictions are put in place to minimise the potential for harm to a student or staff member and do not anticipate the outcome of any SISTC or external investigation.

Harassment means any form of behaviour that is unwelcome, unsolicited, unreciprocated and usually (but not always) repeated. It is behaviour that is likely to offend, humiliate or intimidate. Harassment can be based on any of the attributes listed under the definition of discrimination.

Harassment occurs when a person is treated less favourably on the basis of certain personal characteristics, such as race, sex, pregnancy, marital status, breastfeeding, age, sexual orientation, gender identity or intersex status.

Procedural fairness means that:

- decisions relating to allegations of misconduct must be made based on evidence provided
- an alleged perpetrator is entitled to be given notice of the allegations against them and of any associated process
- an alleged perpetrator will be given the opportunity to respond to allegations of misconduct
- all parties may be accompanied to any meeting by a support person
- the parties involved will not be required to meet with one another to reach a resolution
- a person will not hear or determine a misconduct allegation if they are personally and substantially involved in any aspect of the allegation, if they have a current or prior relationship with the person being investigated for misconduct, or with the person who has made an allegation of misconduct

Sexual assault means sexual contact without consent, ranging from forced kissing and touching to forced intercourse. Examples of sexual assault may include (but are not limited) to:

- 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 consent due to being affected by alcohol
- a lecturer manipulates a student to engage in sexual acts in exchange for better marks
- a staff member who has been continually making advances towards another staff member proceeds to force themselves onto that staff person.

Sexual misconduct includes incidences of *sexual harassment* and *sexual assault*.

Sexual harassment means any unsolicited, unwelcome and unreciprocated behaviour or act or conduct of a sexual nature that embarrasses, humiliates or offends other persons. It can be a single incident or a persistent pattern, and can range from subtle behaviour to explicit demands for sexual activity or even criminal assault, including but not limited to the following examples:

- inappropriate jokes or comments with sexual connotations
- the display of offensive material
- comments and questions about another person's sexual conduct and/or private relationships
- persistent unwelcome invitations or advances
- offensive written, telephone or electronic mail or other computer system communications
- unnecessary close physical proximity including persistently following a person
- staring or leering at a person in a sexual manner

- standing deliberately too close to someone or deliberately brushing against someone as you walk past
- displaying pornographic or sexually explicit material (such as posters and screen savers)
- sending sexually explicit emails, SMS messages
- inappropriate advances on social networking sites
- sexual insults or taunting
- requests for sex or repeated unwanted requests to go out on dates
- making promises or threats in return for sexual favours
- intrusive questions or remarks about a person's appearance or sexual activities

Vexatious complaint means one that is made or pursued without reasonable grounds or made to harass or annoy, to cause delay or detriment, or for any other wrongful purpose.

Victim/Survivor means a person who has been subjected to sexual harassment or assault.

Victimisation means treating someone unfairly because they have made, or intend to make, a discrimination, harassment, sexual misconduct, or bullying complaint. This also includes those who have supported another person in making a complaint.

Violence is considered to be any incident where a person is physically attacked or threatened and may constitute a criminal act. This includes:

- striking, kicking, scratching, biting, spitting or any other type of direct physical contact;
- throwing objects
- attacking with knives, guns, clubs, or any other type of weapon
- pushing, shoving, tripping, or grabbing
- any form of indecent physical contact

Violence can also occur mentally or emotionally and can include attempting to intimidate a person by making this person feel less important or less valued.

Principles

SISTC recognises the diversity of its students and staff and other stakeholders and is committed to fostering the right of individuals to be free from discrimination, harassment, sexual misconduct, and workplace bullying while engaged in activities undertaken as part of their study and employment. All members of the SISTC community are to be treated with courtesy and respect.

The *SISTC Health and Safety Policy and Framework* sets out the ways in which SISTC fosters a safe and positive learning and work culture. As part of this approach, SISTC maintains **zero tolerance** of negative behaviours, including discrimination, bullying, harassment, sexual misconduct, or violence in any form. To achieve this, SISTC is committed to:

- implementing ongoing awareness, education and training for students and staff
- fostering a culture of mutual support and obligation
- providing appropriate mechanisms for individuals and *active bystanders* to report any such behaviour to SISTC
- providing evidence-based and person-centred support services to individuals affected by such behaviour
- promptly assessing all reports of such behaviour and/or referring such reports to the appropriate authorities if such behaviour is a criminal act

- applying the *SISTC Privacy Policy* and the principles of procedural fairness and confidentiality to the investigation of such reports
- acting on the outcomes of such investigations in a fair, timely and sensitive manner

Sexual assault and sexual harassment are unlawful. They are also a fundamental erosion of a person's right to be treated equitably, respectfully, and in a way that protects their safety. These behaviours are never acceptable or deserved and will not be tolerated by SISTC. Sexual assault and sexual harassment are serious misconduct and will be responded to accordingly.

SISTC has established the *Respect, Now, Always Advisory Committee* (RNA Committee) chaired by the Deputy Director of Student Services (DDSS) to be responsible for overseeing SISTC's commitment to the prevention of sexual harassment, sexual assault and gender-based violence on campus and online.

Students and staff are encouraged to intervene safely when they encounter instances of unacceptable behaviour.

Policy Statement

Awareness, Education and Training

SISTC is committed to preventing discrimination, bullying, harassment, sexual misconduct, or violence in its physical and virtual environments through ongoing awareness raising, education and training. SISTC provides education about its policies, including this Policy and the *SISTC Acceptable Use of ICT Resources Policy* through its student orientation and staff induction processes.

SISTC has also made *Consent Matters* (by Epigeum) course available to all staff and students and made it mandatory. Exemptions will only be granted to students and staff who:

- can provide evidence of having completed this course, or its equivalent, during the past 24 months; or
- may experience negative impacts on their wellbeing because of past experiences.

Failure to complete mandatory training will be managed under the provisions of the *SISTC Student Rights and Obligations Policy* and/or the *Staff Rights and Obligations Policy and Procedures* and/or the *Staff Performance Management Policy*.

Complaints, Disclosure and Reporting

SISTC actively encourages staff and students to report behaviour that breaches this Policy. SISTC will ensure that complaints are dealt with in a sensitive, impartial, efficient and confidential manner, with the assistance of external professionals if required. Persons against whom complaints have been made will be accorded procedural fairness using procedures that are transparent and open. Complaints can be made in person by students to the DDSS, by staff to the *Director of Operations* (DoO), or via email to complaints@sistc.edu.au.

Individuals who have directly experienced discrimination, bullying, harassment, sexual misconduct, or violence involving SISTC staff, students or individuals who interact with SISTC have the right to decide what information they disclose.

Making a disclosure starts a process of Information and support provision, which may include making a report, but does not start an investigation. SISTC encourages such individuals to make a disclosure via 1800 RESPECT, to the police, or to a trained SISTC *First Responder* in person, or via complaints@sistc.edu.au. SISTC also encourages individuals who have directly experienced discrimination, bullying, harassment, sexual misconduct, or violence involving SISTC staff or students to file a report with the police or SISTC so that an investigation can be initiated.

Reports can also be filed by an individual who is an *active bystander* - someone who has heard about, or witnessed, such an incident occurring. Such reports must not identify the people involved without their consent. These reports can provide the reporter's contact details or be made anonymously via complaints@sistc.edu.au.

The assessment of an anonymous report may lead to information being shared with the Police or other relevant authority. SISTC may not be able to take any further action on an anonymous report, or on a report that does not involve SISTC staff or students, but in all cases, it will use the information provided to improve its processes for monitoring and response to such incidents.

SISTC recognises that the length of time between an alleged incident of discrimination, bullying, harassment, sexual misconduct, or violence and the making of a report may vary, depending on a range of factors. However, SISTC's ability to take effective action diminishes over time.

The provisions of the *SISTC Privacy Policy* apply to the management, internal and external reporting and disclosure of any personal information contained in disclosures and reports. Within SISTC, information from a report may only be accessed by staff who need this information to act on it. Students and staff involved in SISTC response to an incident must keep all details about the report confidential. Breaches of confidentiality will be dealt with under the *SISTC Student Rights and Obligations Policy*, *Student Code of Conduct*, or the *Staff Performance Management Policy*.

Response to Reported Incidents of Discrimination, Bullying, Harassment, Sexual Misconduct, or Violence

SISTC will apply the principles of procedural fairness to the investigation of any reported incidences of discrimination, bullying, harassment, sexual misconduct, or violence involving SISTC staff or students. SISTC will investigate alleged discrimination, bullying, harassment, sexual misconduct, or violence in accordance with the provisions of the *Student Grievances, Complaints and Appeals Policy and Procedures*; *Student Rights and Obligations Policy*; and/or the *Staff Rights and Obligations Policy and Procedures*, as appropriate. If the allegation in the report is substantiated, in whole or in part, SISTC will impose an appropriate disciplinary outcome. If the allegation is found to be a *vexatious complaint*, SISTC may impose an appropriate disciplinary outcome on the person who lodged it.

An investigation by SISTC does not preclude a criminal investigation by an external agency. The SISTC investigation may have to be delayed if the allegation is reported to the police or another external agency either by the person making the report or by SISTC if this is required under the law. SISTC may implement *Interim Measures* while a report is under investigation. A student or staff member who is subject to Interim Measures has the right to ask for the measures to be removed or varied.

An enrolled student or current staff member who wishes to appeal the decision of SISTC in a discrimination, bullying, harassment, sexual misconduct, or violence matter may use the provisions of the *SISTC Student Grievances, Complaints and Policy and Procedures* or the *Staff*

Rights and Obligations Policy. Other individuals who are dissatisfied with the decision made may have recourse to external agencies such as states' Anti-Discrimination Boards and/or the Australian Human Rights Commission.

Protection from Reprisals, Retaliation, or Threats

Individuals must not victimise another person, or commit or threaten to commit, an act of reprisal, because that person has:

- intervened in a potentially harmful situation as an active bystander
- asked for, or referred someone else for, support regarding discrimination, bullying, harassment, sexual misconduct, or violence
- reported discrimination, bullying, harassment, sexual misconduct, or violence or provided information about such a report
- helped someone else to report discrimination, bullying, harassment, sexual misconduct, or violence,
- been the subject of a report of discrimination, bullying, harassment, sexual misconduct, or violence

SISTC will do everything practicable to protect persons making complaints from victimisation and will ensure such persons are not penalised for reporting discrimination, bullying, sexual misconduct, or harassment. Any individual who is found to have victimised a person who has made or intends to make a complaint, or to have victimised a witness or associate of the person who has made, or intends to make a complaint, will be considered to have breached this Policy.

Consent

A person consents to a sexual activity if the person freely and voluntarily agrees to the sexual activity. Important elements of consent are that it is mutual, freely given, informed, certain and clear, enthusiastic, reversible, specific, and required throughout the activity.

A person does not consent to a sexual activity if they:

- are under the legal age of consent
- do not have the capacity to consent due to age or cognitive incapacity
- do not have the opportunity to consent because they are unconscious or asleep
- consent due to threat of force or terror against themselves or another person
- consent because they are unlawfully detained
- consent because of a mistaken belief about the nature of the sexual activity induced by fraudulent means.

A person is not be capable of consenting to a sexual activity if they:

- consent while substantially intoxicated by alcohol or any drug
- consent because of intimidatory or coercive conduct, or other threat which does not involve a threat of force
- consent because of the abuse of a position of authority or trust
- are under the age of consent

Not offering actual physical resistance to a sexual activity is not by itself regarded as consent.

Consent does not exist when the person is under the lawful age of consent as specified in the applicable State criminal code or legislation.

Internationally, the age of sexual consent can vary greatly and be as low as 12 years in some countries. It is important that international students receive information about the age of sexual consent in Australia. This shall be communicated to students during orientation and in the Student Portal. Staff shall be provided information as part of their induction program.

As mentioned earlier in this document, to ensure all SISTC students and staff have sound understanding of consent, SISTC has made the *Consent Matters* (by Epigeum) course available to all staff and students and made it mandatory.

Diversity

SISTC recognises that different community members will have different expectations and experiences, and that some populations may be more vulnerable to discrimination, bullying, harassment, sexual assault or sexual harassment than others. SISTC shall provide sensitive and appropriate mechanisms so that all members of the SISTC community can be supported and enabled to obtain help if they experience bullying, discrimination, harassment, sexual assault or sexual harassment.

Forms, reporting, and surveying shall take into consideration the accessibility and language needs, and the sexuality and gender identity of all participants.

Roles and Responsibilities

The *Chief Executive Officer* is responsible for:

- overseeing SISTC's compliance with this Policy and the requirements of relevant legislation, and
- ensuring that all Board and Committee members, and senior managers are aware of these requirements and apply them to their areas of operation. This includes contracts with external business partners, such as agents and internship hosts.

The *Director of Operations* has the delegated responsibility for the implementation and management of this Policy across SISTC and for ensuring operational compliance, monitoring, and review. This includes the provision of ongoing training for staff and students and the management of documentation, such as disclosures and reports.

SISTC *First Responders* are to be trained to provide an appropriate initial response, including advice about available SISTC and external support services and the process for making a report.

All *staff* and *students* are responsible for understanding and complying with the provisions of this Policy.

Breaches of This Policy

SISTC will treat all allegations of discrimination, harassment, sexual misconduct, and bullying seriously and impartially. The consequences for breaching this Policy will depend on the seriousness of the case. Outcomes may include, but are not limited to, the following:

- obtaining a commitment from a person to cease, and not to repeat, the behavior
- giving an apology to the person who made the complaint

- mediating between the parties, if both parties agree to a mediation process and the mediator
- offering support to the person making the complaint
- offering support to the person against whom the complaint is made
- disciplinary action
- removing the parties from, or limiting the capacity, for on-going contact with each other
- dismissal, suspension or expulsion of the person found responsible for discrimination, harassment, sexual misconduct, or bullying where serious and/or repeated misconduct in this regard has been established
- disciplinary action, up to and including dismissal, suspension or expulsion, of the person making a complaint of discrimination, harassment, sexual misconduct, or bullying if the complaint is found to have been vexatious or malicious
- disciplinary action against anyone who victimises or penalises a person who has made a complaint

Monitoring and Review

The *Board of Directors* will periodically review the nature and scope of complaints to identify opportunities for improvements.

Publication

This Policy is made available to:

- currently enrolled students via the SISTC Student Portal
- current staff via the SISTC [Staff Portal](#)

other individuals external to SISTC, including prospective students, via the SISTC website www.sistc.edu.au

Relevant Legislation and Standards

Australian Human Rights Commission: Violence, Harassment and Bullying Fact Sheets

Higher Education Standards Framework (Threshold Standards) 2021 Domains 2 and 7

National Code 2018 Standards 2,6,8,10.

Work Health and Safety Act 2011 (Cth)

Racial Discrimination Act 1975

Sex Discrimination Act 1984

Australian Human Rights Commission Act 1986

Workplace Gender Equality Act 2012

Disability Discrimination Act 1992

Criminal Code Act 1995

State Based Crime Acts

Privacy Act 1988 (Cth)

Sexual Discrimination Act 1984 (Cth)

State based Anti-Discrimination Acts

Crimes Act 1900 (NSW)

Key Related Documents

SISTC Equity and Diversity Policy

SISTC Acceptable Use of ICT Resources Policy

SISTC Critical Incident Management Policy

SISTC Health and Safety Policy and Framework

SISTC Privacy Policy

SISTC Staff Rights and Obligations Policy and Procedures

SISTC Staff Performance Management Policy

SISTC Student Grievances, Complaints and Appeals Policy and Procedures

SISTC Student Rights and Obligations Policy

Benchmarking

External referencing activities were conducted against comparable providers and best practice using publicly available information for: Ikon Institute of Australia, Kaplan Australia, Australian College of Applied Professions; Sydney Institute of Traditional Chinese Medicine, Avondale University, Excelsia College, and Cairnmillar Institute.

Document History

Responsible Officer	Chief Executive Officer
Approval Authority /Authorities	Board of Directors
Date Approved	18th July 2024
Endorsed by	Academic Board
Date for Review	2027
Documents Superseded by this Policy	<i>SISTC Anti-Discrimination Policy</i> <i>SISTC Bullying, Harassment and Violence Prevention and Response Policy</i> <i>SISTC Sexual Misconduct Prevention and Response Policy</i>
Amendment History	01.00 new policy established, combining the above three previous policies