

Dignity Policy - Policy against Bullying Discrimination Harassment and Sexual Misconduct for Students

Intent

The intent of this Policy is to ensure that all students of James Cook University Pte Ltd (hereinafter referred to as "JCU Singapore", or the "University") study and socialize in an environment based on inclusivity and respect, free from discrimination, bullying, harassment, including hazing and vilification, and sexual misconduct. The intent of this Policy is to also ensure students understand JCU Singapore's required accountabilities, report handling principles, and the necessity to afford natural justice to affected persons.

Scope

This Policy applies to all students of JCU Singapore while they are engaged in conduct or activities undertaken as part of their study and social activities that are associated with JCU Singapore. This Policy extends to wherever that conduct or activity takes place. The scope of this Policy includes conduct or activities that occur at or in connection with (but are not limited to):

- The JCU Singapore campus and offices
- Sporting and recreational clubs and facilities to the extent that they fall within the University community
- Managed digital environments (including the use of information technology and other University-operated digital platforms), and
- Conduct and activities related to the University's business that are not conducted on University's premises, including (but not limited to):
 - Field trips
 - Placements and internships
 - Conferences
 - Student camps
 - Inter-university events, and
 - Parties and other social functions.

The University acknowledges that while performing duties as a student, that person may experience behaviour that constitutes bullying, discrimination, harassment, or sexual misconduct at locations outside of the University and/or by an individual not connected with the University. The University will liaise with the responsible authority/party to ensure proper procedures are followed and will provide support services.

Definitions

Accommodations Actions that JCU Singapore can take to support a student who has been subjected to sexual harassment or sexual assault to enable them to continue studying and socializing at JCU Singapore. Accommodations will be developed on a case-by-case basis and may include, for example, implementing safety measures, changes to class scheduling, changes to assessment. Accommodations may be provided to a person regardless of whether the person who perpetrated the harassment or assault is associated with JCU Singapore. Accommodations can be made as a result of a report. Accommodations are focused on ensuring a person's well-being.

Affiliate Is a person (other than a staff member or student, including HDR candidates) who is affiliated with JCU Singapore by letter of appointment or invitation to work, study, or research at the University for a particular activity and typically for a prescribed timeframe and who is bound to comply with the University's policies during that period (for example, visiting scholars and adjunct appointees).

Alternative Dispute Resolution Alternative Dispute Resolution ("ADR") refers to methods that sit outside of judicial mechanisms, such as mediation, conciliation, and arbitration as ways to settle disputes. Depending upon the gravity of the report or complaint, JCU Singapore may use ADR in resolving issues relating to discrimination, bullying, and harassment. JCU Singapore does not use mediation, conciliation, or arbitration processes in addressing reports of sexual misconduct.

Bullying is successive, repeated, and unreasonable behaviour directed towards a person or group of people that creates a risk to health and safety. Cyberbullying is a form of bullying or harassment using electronic means, e.g. social media, chat applications, messaging applications, and other electronic platforms.

- **Repeated** behavior is behaviour that occurs more than once and may involve a range of behaviours over time.
- **Unreasonable** behaviour is behaviour that a reasonable person, having regard for the circumstances, would see as unreasonable, including behaviour that is victimizing, humiliating, intimidating, or threatening.

The following behaviours do not constitute bullying:

- A single incident of unreasonable behaviour. (However, single or one-off incidents of unreasonable conduct can also cause a risk to health and safety, may breach other University policies and could constitute misconduct)
- Low-level conflict defined as interpersonal conflict or disagreement is not sufficient to constitute bullying. People can and will disagree with each other.

Bystander A bystander includes a person who observes someone bullying, harassing, discriminating against, sexually harassing, or sexually assaulting another person.

Child Sexual Abuse Sexual assault of a child (an individual under 14 years of age) or young person (an individual under 16 or 18 years of age, as the case may be) for the purposes of the Children and Young Persons Act 1993 ("**CYPA**") is defined as Child Sexual Abuse or Sexual Exploitation under section 6 and section 8 of the CYPA, respectively and constitutes a criminal offence. This Policy does not apply to Child Sexual Abuse, including the abuse of Students under 18 years of age. All cases involving Students under 18 years of age must be referred directly to the Associate Director Student Affairs/Student Counsellor immediately for reporting to the Singapore Police Force or other relevant authorities.

Consent means the free and voluntary agreement to participate in an activity that may include an intimate or sexual relationship given by a person with the cognitive capacity to do so. Consent is not freely and voluntarily given if the person is:

- Under force
- Unconscious or asleep
- Under the influence of drugs or alcohol
- Under threat or intimidation
- In fear of bodily harm
- Subjected to the exercise of authority
- Under false or fraudulent representations about the nature or purpose of the act, or
- Under a mistaken belief that the offender was someone else (for example, their sexual partner).

Consent can be given and subsequently withdrawn at any point.

Discrimination including direct and indirect discrimination occurs when a person is treated less favourably or harassed in certain areas of life including their employment because of a personal characteristic or attribute, whether real or imputed, including the setting of a requirement, condition, or practice that is unreasonable and that people with a particular characteristic cannot meet.

The grounds for which a report may be made under this policy include discrimination and harassment based on one or more of the following characteristics:

- Sex or gender
- Relationship status, pregnancy, breastfeeding, parental status, and family responsibility
- Disability or impairment
- Race, accent, colour, national or ethnic origin, nationality, ethnicity, descent or ancestry, or immigration
- Age
- Religious or political belief or activity.

Discrimination can be on the basis of direct or indirect discrimination:

- Direct discrimination on the basis of an attribute happens if a person treats, or proposes to treat, a person with an attribute less favourably than another person

without the attribute is or would be treated in circumstances that are the same or not materially different.

- Indirect discrimination on the basis of an attribute happens if a person imposes, or proposes to impose, a term:
 - With which a person with an attribute does not or is not able to comply, and
 - With which a higher proportion of people without the attribute comply or are able to comply, and
 - That is not reasonable.

Duty of care The University's duty of care requires all staff, affiliates, and students to take reasonable care in order to avoid reasonably foreseeable harm that may arise. The safety and wellbeing of staff, affiliates, students, volunteers, and visitors is the first priority in any situation.

First Responder Any member of the University community may be a first responder. A first responder is a person who is the first to become aware (or is confided in by another) that a person has experienced or is currently experiencing an incident of bullying, discrimination, sexual harassment, or sexual assault.

Harassment occurs when a person, or a group of people, is intimidated, insulted, or humiliated because of one or more characteristics, or from working in a hostile or intimidating environment that makes a person feel offended, humiliated, or intimidated, and where that reaction is reasonable in the circumstances. Harassment can arise as the result of a single incident as well as repeated incidents. See further definition of Sexual Harassment below.

Hazing is any action or situation, with or without the consent of the participants, that recklessly, intentionally, or unintentionally endangers the mental, physical, or academic health or safety of staff or students and can include the practice of rituals, challenges, and other activities as a way of initiating a person into a group including a new residential college, team, or club.

Vilification Specifically, a person must not, by a public act, incite hatred towards, serious contempt for, or severe ridicule of, a person or group of persons on the ground of the race, religion, sexuality, or gender identity of the person or members of the group.

Vexatious

A report is deemed to be vexatious if it is:

- Dishonest or contains intentionally misleading information
- Malicious; pursued with undue persistence
- Has the intent to harass or cause delay or detriment, or
- Is pursued in a manner that threatens, menaces, or harasses a member of the staff, the students, or an affiliate of the University.

Incident Register is a confidential register that is maintained by the Manager, Student Feedback and Director Human Resources for students and staff respectively. All reports of sexual misconduct are recorded on the Incident Register to enable University to identify patterns in behaviours, or high-risk University activities or premises, and to monitor progress in eliminating sexual assault or sexual harassment.

Natural Justice (also known as procedural fairness) is concerned with the rights and procedures used by a decision-maker in making a decision, rather than the substance of the decision made. It requires a fair and transparent process. The contributor and respondent must both be afforded natural justice, which includes the respondent being sufficiently informed of the allegation to allow for a meaningful response.

Natural justice requires:

- The right to be fully apprised of the allegation(s), including the particulars of the allegation(s)
- The right to be heard
- The right to be treated without bias or conflict of interest, and
- A decision based on evidence.

These rules involve contributors and respondents having a reasonable opportunity to prepare and present a case, and to have their cases considered justly.

Precautionary Measures Measures or actions undertaken by the University directed at a student, staff member, or affiliate, who is alleged to have committed a criminal offence or a breach of discipline. Precautionary measures may be undertaken at an early stage pending the outcome of criminal/disciplinary proceedings. A precautionary measure is not a penalty or sanction and must be reasonable and proportionate. Precautionary measures may be put in place if they are necessary to ensure a full and proper investigation can be carried out (whether by the Police, the University, or an investigative body); and/or for the wellbeing of the person subjected to the alleged assault or other persons whilst the allegation is being dealt with. Precautionary measures include options such as suspension, and or restricted access to areas of the campus, students, or services.

Report A report is information provided to JCU Singapore about an incident or suspected wrongdoing that the person making the report believes to be misconduct. A report must not be anonymous, and the person reporting must identify the other person/people involved. A report shall be in writing either through email and/or a formal letter.

The University can provide support to a person making the report (if they have identified themselves) including accommodations and precautionary measures, and advice about making a report.

Sexual Assault e.g. outrage of modesty is any unwanted or forced sexual act or behaviour without consent. Sexual Assault occurs when a person:

- Touches or makes contact with another person (and the touching or making contact is sexual in nature) without their consent – groping and any physical contact such as patting, pinching, or touching in a sexual way is a form of sexual assault
- Forces another person against their will to commit an act of gross indecency – a sexual act that does not involve penetration, for example, a person forces another person to touch their genitals
- Forces another person to see an act of gross indecency, for example, the person masturbates in front of the other person.

Rape is the most serious form of sexual assault and occurs when a person or persons force another person or persons to have sexual intercourse without his or her consent. Rape includes forcing someone to perform oral sex, digital penetration, and inserting any object into the vulva, vagina, or anus of another person without their consent.

Sexual Harassment is any unwelcome sexual advance, unwelcome request for sexual favours, or other unwelcome conduct of a sexual nature that is done either to offend, humiliate, or intimidate another person, or where it is reasonable to expect the person might feel that way. Sexual harassment may include:

- Displays of sexually graphic materials including posters, cartoons, or messages left on noticeboards, desks, or common areas
- Repeated invitations to develop a closer or intimate relationship after prior refusal
- Unwelcome and uncalled for remarks or insinuations about a person's sex or private life
- Comments of a sexually suggestive nature about a person's appearance or body
- Sexually offensive phone calls
- Offensive emails and text messages of a sexual nature
- Unwanted sexual attention using the internet, social networking sites, and mobile phones
- Sexually offensive screensavers or posters
- A publication, such as sexually offensive emails or graphics
- Threats online of a sexual nature
- Revenge porn
- Sexual propositions
- Indecent exposure
- Stalking
- Pressuring a student or staff member to engage in sexual behaviour for some educational or employment benefit, or
- Making a real or perceived threat that rejecting sexual behaviour will carry a negative consequence for the student in education, accommodation, or University programme or activity.

Sexual Misconduct refers to instances of sexual harassment or sexual assault that the University is notified of, or is responding to. If proven, allegations of sexual misconduct are a

breach of this policy and also of the Codes of Conduct that apply to both the staff and students at the University.

University Community means the staff, the students, and affiliates of the University, as well as those who use the University's campuses or facilities for work, study and socializing, or other authorized activity.

Student is a person who has been admitted to the University and has enrolled for a course or a subject and whose enrolment for that course or for that subject has not lapsed or been cancelled.

The person may have ceased to be a student by the time the investigation proceedings start, however, this procedure includes circumstances giving rise to the investigation proceedings that arose while the person was still a student at the University.

Representative (or Support Person) A representative (also referred to as a support person) is a person to assist, accompany and support a contributor, respondent, or interviewee in their participation in matters relating to this Policy and supporting procedures. A representative may be a friend or family member a staff member, or delegate, and not a practicing solicitor.

Policy

1. Commitment

1.1 The University confirms that:

- The University is committed to the rights of all students to study and socialize in an environment that is based on inclusivity, respect, and free from discrimination, bullying, harassment, including hazing and vilification, and sexual misconduct.
- All people have a right to an environment free from discrimination, bullying, harassment, and sexual misconduct while engaged in activities undertaken as part of their study, research, and work, or other association with JCU Singapore.
- Discrimination, bullying, harassment, and sexual misconduct will not be tolerated under any circumstances.
- Discrimination, bullying, harassment, and sexual misconduct in employment and education are unlawful under various legislative enactments as listed in the related documents and legislation section of this policy.
- JCU Singapore will use educative approaches for the prevention of discrimination, bullying, harassment, and sexual misconduct to inform members of the JCU Singapore community of their rights and responsibilities, to encourage the reporting of behaviour,

practices, or publications that contravene this policy, and ensure JCU Singapore's systems and processes are not discriminatory.

- The well-being and needs of the person who has been subjected to sexual harassment or sexual assault are at the center of JCU Singapore's response.
- The University's response to sexual assault includes the provision of additional and complementary support services. Natural justice principles apply to the implementation of this Policy as well as the handling of reports under this Policy.
- Except to the extent that disclosure is required, or authorized by legislation, confidentiality will be maintained to the greatest possible extent, with communication limited to persons to whom disclosure is made (consistent with position and responsibility), or those with specific responsibility to assist in the resolution of the report.
- Sexual assault against a child is defined as child sexual abuse and constitutes a criminal offence under Singapore laws.

1.2 The University acknowledges that:

- Sexual assault and sexual harassment may be perpetrated or experienced by people of any sexual orientation or gender identity and may be a single incident or a persistent pattern of unwelcome behaviour.
- Sexual assault and sexual harassment are overwhelmingly perpetrated by men, and women are overwhelmingly the victims. Gender inequality provides the underlying social conditions for sexual assault and sexual harassment.
- Sexual harassment most often occurs in relationship of unequal power or authority, although it may also take place between peers. In providing a working and learning environment free of harassment, it is important to recognize that certain groups may be particularly vulnerable, including:
 - People from non-English-speaking backgrounds
 - People with disabilities, and
 - People working or learning in non-traditional areas.
 - Women working in isolated areas.

1.3 With respect to sexual misconduct, JCU Singapore:

- Encourages any person who has experienced or who has witnessed any sexual harassment or sexual assault by, or toward, a member of the University community to report the incident.
- All reports of sexual misconduct are recorded to enable JCU Singapore to identify patterns in behaviours, or areas of the University, and to monitor progress in eliminating sexual assault and sexual harassment.

- Supports any person to make a decision about making a report to the University. The University understands the decision to make a report can be complex.
- Will follow due process and afford natural justice to all parties. The University will ensure that there are single points of contact whenever possible.
- Individual well-being and the reduction of harm are key drivers in any response to sexual assault.

2. Consequences of Breach

2.1 Breaches of this policy by a student will constitute a breach of discipline of the University, and the University may instigate disciplinary proceedings for the alleged breach of discipline.

2.2 In respect of Item 2.1 above, breaches of this policy will be addressed through the relevant University's disciplinary policies and/or procedures prescribed for students. Depending upon the severity and implications of the breach, sanctions may include legal action, a formal warning, retraining, and/or other disciplinary action (such as suspension or exclusion from the University).

3. Accountabilities and responsibilities

3.1 Every member of the University Community, has the following obligations to:

- Take reasonable care for their own health and safety,
- Take reasonable care for the health and safety of others,
- Comply with any reasonable instruction from JCU Singapore, and
- Comply with all applicable JCU Singapore Policies and Procedures.

3.2 A bystander who observes someone bullying, harassing, discriminating against, sexually harassing, or sexually assaulting another person, should address the person offending at the time, if they are able to, and it is safe to do so. Bystanders should let the person subjected to the offence know that they have noticed and ask what they can do to help.

3.3 Some members of the University community have further obligations in respect of their positions or delegated authority that it is their responsibility to understand.

4. Inquiry Committee and Reporting to Government Authorities

4.1 The University may convene an Independent Committee of Inquiry (Investigation Committee) as determined by Deputy Vice-Chancellor and Head of Campus, Singapore.

4.2 The University reserves all rights to take appropriate disciplinary actions against students who may have committed Bullying, Discrimination, Harassment, or Sexual Misconduct, including but not limited to placing students on suspension and termination.

4.3 The University investigation may be suspended if the relevant Government Authorities are involved due to criminal proceedings. If deemed necessary, the University may resume investigation after investigations by the Government Authorities have concluded.

5. Resolutions and Procedure

5.1 Potential Resolutions (outcomes) of a Bullying, Discrimination, Harassment, or Sexual Misconduct case may include but are not limited to mediation/intervention agreement, no contact instructions, sanctions, disciplinary procedures, and in extreme cases, exclusion.

5.2 For students, Bullying, Discrimination, Harassment, or Sexual Misconduct are addressed through the Handling of Student Disciplinary Procedure (Non-Academic).

6. Continuous Improvement

6.1 This policy shall be reviewed periodically, as part of JCU Singapore's effort toward reviewing its effectiveness and for continuous improvement.

Related Policy Instruments

Personal Data Protection Act
Student Code of Conduct
Student Feedback Management Policy
Student Feedback Management Procedure
Handling of Student Disciplinary Procedures (Non-Academic)

Related Documents and Legislation

Singapore Penal Code (Cap. 224)
Protection from Harassment Act (Chapter 256A)
Singapore Employment Act (Cap. 91)
Tripartite Guidelines
Singapore Laws

Administration

Approval Details

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Revision History

Version	Revision date	Description of changes	Author
1.0	01/10/2020	Establish Policy	Associate Director, Student Affairs
1.1	8/10/2021	Reviewed Policy to align with Procedure Updated Related Policy Instruments Added numbering	Manager, Student Feedback
1.2	25/05/2022	Updated accountabilities and responsibilities for handling student misconduct Reviewed to align with related policy instruments Updated title to align with policy for staff	Manager, Student Feedback

Contact Person/Unit

Contact Persons/Unit:	Manager, Student Feedback
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Keywords

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