PURPOSE AND SCOPE

The aim of this policy is:

- Outline a standard of behaviour expected of staff and students.
- Create a safe and respectful work and study environment.
- Outline how SITCM will respond to reports of sexual harassment or assault.

This policy applies to all stakeholders at the Sydney Institute of Traditional Chinese Medicine (SITCM).

1 OVERVIEW

The Sydney Institute of Traditional Chinese Medicine (SITCM) is committed to providing a work and study environment which is safe and respectful. SITCM takes a zero-tolerance approach to sexual assault, sexual harassment and other forms of harmful misconduct.

This policy has been informed by the Higher Education Standards Framework (Threshold Standards) 2015, in particular Section 2.3 Wellbeing and Safety, and by the Sex Discrimination Act 1984 (Cth), the Anti-Discrimination Act 1977 (NSW) and the Crimes Act 1900 (NSW).

2 POLICY

2.1 DEFINITIONS

2.1.1 DEFINITION OF SEXUAL HARASSMENT

1) Sexual harassment is defined under both the Sex Discrimination Act 1984 (Cth) and the Anti-Discrimination Act 1977 (NSW) as:
2.1.2 DEFINITION OF SEXUAL ASSAULT

1) This policy classifies sexual assault as a broad term which covers several actions prohibited under the Crimes Act 1900 (NSW) Part 3 Division 10: Sexual Offences against Adults and Children, including:
   a. A sexual act: when a person intentionally carries out an act with another person, knowing that the other person does not consent to the act, in circumstances where a reasonable person would consider the act to be sexual.
   b. Sexual touching: when a person intentionally touches another person with any part of the body or with anything else, either directly or through anything, knowing that the person does not consent to the touching, in circumstances where a reasonable person would consider the touching to be sexual.
   c. Sexual assault: where a person has sexual intercourse with another person, knowing that the other person does not consent to the sexual intercourse.
   d. Aggravated sexual assault: where a person has sexual intercourse with another person, knowing that the other person does not consent to the sexual intercourse, in circumstances of aggravation.
      i. For a definition of “circumstances of aggravation”, refer to the Crimes Act 1900 Section 61J(2).

2.1.3 DEFINITION OF CONSENT

1) This policy follows the Crimes Act 1900 (NSW) definition of consent:
   a. A person consents to a sexual activity if the person freely and voluntarily agrees to the sexual activity.
   b. A person does not consent to a sexual activity if they:
      i. Do not have the capacity to consent due to age or cognitive incapacity;
ii. Do not have the opportunity to consent because they are unconscious or asleep;
iii. Consent due to threat of force or terror against themselves or another person;
iv. Consent because they are unlawfully detained; or
v. Consent because of a mistaken belief about the nature of the sexual activity induced by fraudulent means.
c. A person might not be capable of consenting to a sexual activity if they:
   i. Consent while substantially intoxicated by alcohol or any drug;
   ii. Consent because of intimidatory or coercive conduct, or other threat, that does not involve a threat of force; or
   iii. Consent because of the abuse of a position of authority or trust.
d. Not offering actual physical resistance to a sexual activity is not by itself regarded as consent.

2.2 PREVENTION

2.2.1 RESPONSIBILITIES

2.2.1.1 SASH TASKFORCE
1) The Sexual Assault and Sexual Harassment (SASH) Taskforce is responsible for:
   a. Monitoring the implementation of this policy.
   b. Promoting a safe and respectful campus environment.
   c. Providing advice, recommendations and feedback to the Executive Management Group (EMG).
   d. Ensuring victims of sexual assault and sexual harassment receive appropriate support from SITCM.
   e. Reviewing the Critical Incident Register for sexual assault and sexual harassment cases and reporting them to the EMG.
2) The SASH Taskforce comprises six (6) members, no more than four of whom may be of the same gender, and includes:
   a. One (1) member of the Workplace Health and Safety Committee (Chair).
   b. One (1) academic staff member.
   c. Two (2) non-academic staff members.
   d. One (1) Student Support Officer.
   e. One (1) student member.
3) The SASH Taskforce holds at least one minuted meeting per semester.
4) The Chair of the SASH Taskforce reports on matters arising at SASH Taskforce meetings to the EMG.
5) The existence of the SASH Taskforce does not negate the responsibility of all EMG members to promote a safe and respectful campus environment.
6) Victims of sexual assault and sexual harassment can contact the SASH Taskforce by emailing sash@sitcm.edu.au or by asking for a Student Support Officer at the reception.

2.2.1.2 EXECUTIVE MANAGEMENT GROUP
1) The EMG, chaired by the CEO, is responsible for:
   a. Promoting a safe and respectful campus environment; and
   b. Ensuring that the SASH Taskforce is fulfilling its responsibilities, including by providing all necessary support and resources.
2.2.1.3 MANAGERIAL STAFF

1) All advertised management positions at SITCM include as a selection criterion the ability to understand and deal with harassment and discrimination issues, in accordance with the Staff Recruitment Policy and Procedure.
2) All management staff appraisals consider whether responsibilities regarding harassment and discrimination are met, in accordance with the Staff Appraisal and Promotion Policy and Procedure.

2.2.2 SECURITY

1) CCTV cameras are present in all public areas of the SITCM Campus.
2) In an emergency, 000 should be called.
3) If anyone feels otherwise unsafe on the SITCM campus, they can call:
   a. Building security on 0449 077 699 (Monday to Thursday).
   b. Building security on 0404 114 973 (Friday to Sunday).
   c. The SASH Taskforce Chair (Karen Soo) on 0406 465 203.
   d. The WHS Manager (Damien Mathews) on 0475 773 012.

2.2.3 EDUCATION AND TRAINING

1) All Student Support Officers and SASH Committee members are formally trained in providing appropriate support in cases of sexual assault and sexual harassment.

2.2.4 CAMPUS AWARENESS

1) To ensure SITCM staff and students are aware of the importance of campus safety and respect, the following measures will be taken:
   a. Information on sexual assault and sexual harassment is placed around the SITCM campus.
   b. The SITCM website includes an information page on sexual assault and sexual harassment.
   c. The learning management system Moodle includes an information factsheet on sexual assault and sexual harassment.

2.3 REPORTING

1) Anyone who is a victim or is aware of a case of sexual assault or sexual harassment connected to SITCM may choose to report it to one of the following:
   a. The SASH Taskforce, via the email sash@sitcm.edu.au.
   b. Their lecturer, clinical supervisor or Student Support Officer (when the reporter is a student), either face to face, by phone or by email.
   c. Their manager (when the reporter is a staff member), either face to face, by phone or by email.
   d. An external entity, such as the police (refer to Section 2.4.8 for further details).

2.4 RESPONSE

2.4.1 PRINCIPLES

1) In handling a sexual assault or sexual harassment-related incident, and regardless of whether the incident took place on or off campus, SITCM will follow the below complainant-centred principles:
   a. Focus on the needs of the complainant.
b. Treat the complainant with respect and dignity.
c. Avoid causing any further trauma to the complainant.
d. Ensure the complainant is aware of all available avenues of support and respect the complainant’s decision on whether to use available support.
e. Ensure the complainant is in control of decision making.
f. Offer to aid with the engagement of any external support and response services.
g. Respect privacy.

2) In handling a sexual assault or sexual harassment-related incident, SITCM will, wherever possible, follow the below principles for an alleged perpetrator who is a SITCM staff member or student:
   a. Treat the alleged perpetrator with respect and dignity.
   b. Minimise trauma arising from the incident.
   c. Ensure the alleged perpetrator is aware of all available support services.
   d. Show fairness and impartiality throughout any internal investigation process.
   e. Respect privacy.

2.4.2 INITIAL RESPONSE
   1) The initial response to a report of sexual assault or sexual harassment will consider how recently the alleged offence took place, according to the following categories:
      a. Within the last couple of hours.
      b. Within the last 72 hours.
      c. Within the last six months.
      d. Any other time.
   2) SITCM’s response will be led by a Coordinator chosen from within the SASH Taskforce.
   3) The following are examples of responses that may be appropriate specifically for a sexual assault or sexual harassment incident:
      a. Gathering information to facilitate an appropriate response.
      b. Calling an ambulance.
      c. Transporting the complainant to the Eastern & Central Sydney Sexual Assault Service at the Royal Prince Alfred Hospital.
      d. Referring the complainant to the external support services listed in Section 2.3.8, and offering to facilitate contact between the complainant and these services.
      e. Referring the complainant to a suitably trained Student Support Officer.
      f. Informing the complainant of their options under this policy, including investigation options under Section 2.4.4.

2.4.3 IMMEDIATE RESPONSE
   1) When sexual assault or sexual harassment occurs, an immediate response may be required to ensure safety on SITCM premises.
   2) If an immediate response is required, the alleged perpetrator may be suspended from all activity on SITCM premises and may be excluded for a period of up to ten (10) working days, not including the day on which the event occurred, while an investigation takes place.

2.4.4 INVESTIGATIONS
   1) The complainant may choose for SITCM to investigate the incident in accordance with the Non-Academic Grievance Policy and Procedure and/or the Academic Grievance Policy and Procedure if:
      a. The complainant is a student, and
b. The incident took place on campus and/or involved another member of the SITCM community.

2) The complainant may choose for SITCM to investigate the incident in accordance with *Staff Grievance Policy and Procedure* if:
   a. The complainant is a staff member, and
   b. The incident took place on campus and/or involved another member of the SITCM community.

3) If an allegation of sexual assault or sexual harassment is considered at the conclusion of an SITCM grievance process to be substantiated:
   a. If the perpetrator is a student, the incident will be handled in accordance with *Student Non-Academic Misconduct Policy*.
   b. If the perpetrator is a staff member, the incident will be handled in accordance with *Staff Misconduct Policy*.

4) The complainant may choose to report the incident to the police, with or without assistance from SITCM.
   a. SITCM will respect a complainant’s decision to not involve the police, provided that not involving the police would not be likely to put other members of the SITCM community at risk.

5) If a police investigation or court proceeding relating to sexual assault or sexual harassment is underway, SITCM may choose to suspend an internal grievance investigation until the conclusion of the police investigation or court proceeding.

### 2.4.5 RECORD KEEPING

1) Minutes or notes must be taken at all meetings that take place in response to a reported sexual assault or sexual harassment.

2) All reported incidents involving sexual assault or sexual harassment and SITCM’s response must be added to the *Critical Incidents Register* in accordance with the *Critical Incident Policy and Procedures*.
   a. The WHS Manager is responsible for reporting all incidents involving sexual assault or sexual harassment to the EMG.
   b. The WHS Manager is responsible for drawing the EMG’s attention to patterns of recurring incidents and ensuring appropriate action is taken to mitigate future risk.

3) SITCM will report all reported incidents involving sexual assault or sexual harassment to the Tertiary Education Quality and Standards Agency and the Chinese Medicine Board of Australia.

### 2.4.6 CONFIDENTIALITY

1) SITCM recognises the importance of, wherever possible, maintaining the confidentiality of all parties when a report of sexual assault or sexual harassment is made.

2) In gathering information in response to a report of sexual assault or sexual harassment, SITCM will adhere to the *Privacy Policy*.

### 2.4.7 VEXATIOUS COMPLAINTS

1) If a complaint is made to SITCM about sexual assault or sexual harassment and it is established that the complainant knew the complaint to be untrue at the time it was made:
   a. If the complainant is a student, the vexatious complaint will be dealt with in accordance with *Student Non-Academic Misconduct Policy*. 
b. If the complainant is a staff member, the vexatious complaint will be dealt with in accordance with Staff Misconduct Policy.

2.4.8 EXTERNAL SUPPORT SERVICES

2.4.8.1 SEXUAL HARASSMENT
1) For support relating to sexual harassment, a complainant may send a written complaint to the Australian Human Rights Commission (AHRC) here: https://humanrights.gov.au/complaints/make-complaint.
   a. There is no requirement that the complainant first attempt to resolve the complaint at SITCM.
2) The AHRC will investigate the complaint and generally attempt to resolve it by conciliation.

2.4.8.2 SEXUAL ASSAULT
1) A complainant may contact any of the following support services for sexual assault.
   a. There is no requirement that the complainant first attempt to resolve the complaint at SITCM.

<table>
<thead>
<tr>
<th>Organisation</th>
<th>Number</th>
<th>Situation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Emergency Services</td>
<td>000</td>
<td>You are in immediate danger</td>
</tr>
<tr>
<td>Day Street Police Station</td>
<td>(02) 9265 6499 (24-hour line)</td>
<td>You wish to report an incident to the police but are not in immediate danger</td>
</tr>
<tr>
<td>1800RESPECT</td>
<td>1800 737 732 (24-hour hotline)</td>
<td>You have been impacted by sexual assault and seek confidential information, counselling or support</td>
</tr>
<tr>
<td>Eastern &amp; Central Sydney Sexual Assault Service</td>
<td>(02) 9515 9040 (daytime)  (02) 9515 6111 (after hours)</td>
<td>You have been sexually assaulted and seek confidential information, counselling or support</td>
</tr>
<tr>
<td>NSW Rape Crisis Centre</td>
<td>1800 424 017 (24-hour hotline)</td>
<td>You have experienced or are at risk of sexual assault and seek crisis counselling</td>
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</tbody>
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3 PROCEDURES

3.1 PROCEDURE FOR DEALING WITH REPORTED SEXUAL ASSAULT OR SEXUAL HARASSMENT
1) The incident is reported to a SITCM staff member or SASH Taskforce member.
2) If an incident constitutes an emergency, the first staff member to receive the report will call emergency services.
3) If the incident took place within the last 72 hours, the first person to receive the report will notify the WHS Manager or other available member of the WHS Committee in accordance with the Critical Incident Policy and Procedures.
   a. This notified person will become the Coordinator.
4) If the incident did not take place within the last 72 hours, the first person to receive the report will notify an available member of the SASH Taskforce, who will then become the Coordinator.

5) The Coordinator will gather information to facilitate an informed response.

6) If medical care may be needed or forensic evidence may be preserved, the Coordinator will inform the complainant and offer for SITCM to assist in transporting the complainant to the Eastern & Central Sydney Sexual Assault Service at the Royal Prince Alfred Hospital.

7) The Coordinator will inform the complainant of all support services available, including internal (a Student Support Officer) and external (see Section 2.3.8), and offer assistance in connecting the complainant with these services.

8) The Coordinator will inform the complainant that cases of sexual assault and sexual harassment may be reported to the police and ask if the complainant would like SITCM to assist in contacting the police.

9) If the complainant has a right to a grievance process in accordance with Non-Academic Grievance Policy and Procedure or Staff Grievance Policy and Procedure, the Coordinator will inform the complainant of that right.

10) The Coordinator will ask the complainant whether they would like any additional support from SITCM, and provide any additional support requested if possible.

11) The Coordinator will ensure the incident is recorded in the Critical Incidents Register and reported at the next EMG meeting.

4 RELATED POLICY AND OTHER DOCUMENTATION

4) Crimes Act 1900.
5) Critical Incident Register.
6) B3.12 Staff Recruitment Policy and Procedure.
7) B3.11 Staff Appraisal and Promotion Policy and Procedure.
8) E2.20 Critical Incident Policy and Procedures.
11) E2.11 Staff Grievance Policy and Procedure.
12) E2.08 Student Non-Academic Misconduct Policy.
13) E2.24 Staff Misconduct Policy.
14) E2.16 Privacy Policy.