

# A POLICY ON THE PROTECTION OF STAFF AND STUDENTS AGAINST SEXUAL MISCONDUCT

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## Contents

<b>1</b>	<b>NUS STATEMENT OF COMMITMENT .....</b>	<b>3</b>
<b>2</b>	<b>APPLICATION AND SCOPE .....</b>	<b>3</b>
<b>3</b>	<b>DEFINITIONS .....</b>	<b>3</b>
<b>4</b>	<b>SUPPORT, RESOURCES AND EDUCATION .....</b>	<b>4</b>
<b>5</b>	<b>CONFIDENTIALITY AND PRIVACY .....</b>	<b>4</b>
<b>6</b>	<b>DISCLOSING AND REPORTING VIOLATIONS OF POLICY TO NUS .....</b>	<b>5</b>
<b>7</b>	<b>PROCEDURE FOR REPORTS, INVESTIGATIONS AND DISCIPLINARY PROCEEDINGS .....</b>	<b>7</b>
<b>8</b>	<b>REPORTS TO POLICE .....</b>	<b>7</b>
<b>9</b>	<b>INTERIM MEASURES .....</b>	<b>8</b>
<b>10</b>	<b>APPEALS .....</b>	<b>9</b>
<b>11</b>	<b>RETALIATION .....</b>	<b>9</b>
<b>12</b>	<b>MALICIOUS DISCLOSURES AND REPORTS .....</b>	<b>10</b>
<b>13</b>	<b>REPORTING OF STATISTICS AND TRENDS .....</b>	<b>10</b>
<b>14</b>	<b>REVIEW .....</b>	<b>10</b>
<b>15</b>	<b>LIST OF APPENDICES .....</b>	<b>11</b>

## 1 NUS STATEMENT OF COMMITMENT

- 1.1 NUS requires its community of staff and students to treat all persons with dignity, consideration and respect. Any form of sexual misconduct will not be tolerated, and will be investigated fully and disciplined accordingly. NUS pledges to provide care and support to any member of the NUS Community who experiences sexual misconduct, and to build a safe, respectful and inclusive campus, dedicated to the flourishing of academic and personal excellence.

## 2 APPLICATION AND SCOPE

- 2.1 This Policy on Protection of Staff and Students Against Sexual Misconduct ("Policy") applies to all members of the NUS Community. It clarifies what NUS considers to be Sexual Misconduct and provides for the reporting, investigation and decision-making of incidents of Sexual Misconduct.
- 2.2 NUS will offer support and services to all members of the NUS Community, whether they are Complainant, Witness or Respondent.
- 2.3 NUS believes in a whole-of-community approach to upholding its zero tolerance stance towards Sexual Misconduct. All members of the NUS Community are encouraged to be active advocates of this Policy, and to intervene where it is appropriate and safe to do so.

## 3 SOME DEFINITIONS

- 3.1 **"Affected Parties"**: The Respondent, Complainant, and Witnesses.
- 3.2 **"Complainant"**: A member of the NUS Community who has experienced an incident of Sexual Misconduct that is the subject matter of a Disclosure or Report.
- 3.3 **"Consent"**: Please refer to Appendix 1.
- 3.4 **"Disclosure"**: The sharing of information by an individual with a member of the NUS Community regarding an incident of Sexual Misconduct experienced by that individual.
- 3.5 **"Intimate Relationship(s)"**: Any association, however brief, of a marital, sexual, romantic or emotional nature; whether in-person or not (for example, via social media, email or text messaging). This applies irrespective of gender, gender identity or sexual orientation.
- 3.6 **"NUS Community"**: Includes all students and staff of NUS.
- 3.7 **"Reporting"**: The sharing of information by an individual with a designated member of the NUS Community regarding an incident of Sexual Misconduct experienced or known to that individual, with the intention of initiating a process set out in this Policy which could result in disciplinary action against a member of the NUS Community alleged to have committed Sexual Misconduct. The written record of the incident of Sexual Misconduct, comprising both the initial record and

any subsequent records of additional information submitted by the Reporting Party shall be referred to as the **"Report"**.

- 3.8 **"Reporting Party"**: The person who makes a Report alleging an incident of Sexual Misconduct.
- 3.9 **"Respondent"**: A person against whom an allegation of Sexual Misconduct has been made.
- 3.10 **"Sexual Misconduct"**: Please refer to Appendix 1.
- 3.11 **"Witness"**: a member of the NUS Community who witnesses or otherwise has information relevant to an incident of Sexual Misconduct.

#### **4 SUPPORT, RESOURCES AND EDUCATION**

- 4.1 NUS encourages all Affected Parties to get the support they need by informing and receiving assistance and guidance from trusted parties or availing themselves of NUS resources, including those of the NUS Care Unit ("**NCU**").
- 4.2 The NCU is the primary point of contact for any member of the NUS Community who experiences or witnesses Sexual Misconduct. The NCU will coordinate academic, employment, or other accommodations and services for any member of the NUS Community who has experienced Sexual Misconduct.
- 4.3 NUS will work with the Affected Parties to determine the appropriate course of action. This may include mediation, restorative justice, or pre-emptive action. NUS will also make available the appropriate support and services, including counselling, access or referrals to medical services, to the Affected Parties and any other member of the NUS Community who has been affected by an incident of Sexual Misconduct.
- 4.4 Training is essential for the prevention of Sexual Misconduct, and is provided and required by NUS. Additionally, NUS provides specialised training for members of the NUS Community who are likely to be involved in the Disclosure or Reporting process, as well as specialist training for staff of the NCU, so that they can support those who disclose or report with dignity and compassion and inform them of their options in a safe and confidential environment.

#### **5 CONFIDENTIALITY AND PRIVACY**

- 5.1 NUS recognises the importance of privacy and confidentiality in cases of alleged Sexual Misconduct. All parties, including the Reporting Party, Complainant, Respondent, supporters and advisors to these parties, and Witnesses, should maintain confidentiality. They should discuss the matter only with those who have a genuine need to know. A breach of confidentiality by a member of the NUS Community may result in disciplinary action.

- 5.2 NUS shall manage documents and records related to allegations of violations of this Policy with the highest possible level of confidentiality. While discretion will be maintained,
- (i) Information may be shared with members of the NUS Community on a need-to-know basis in order to assist in the review, investigation and resolution of the matter. Even where sharing is required, the names and details of the parties involved will be kept confidential as far as possible.
  - (ii) NUS may share information with other parties, as necessary, where it has sufficient reason to believe that the Complainant or other parties are at risk of imminent or reasonably anticipated harm and such disclosure of information is necessary to address the situation or for the safety of the NUS Community.
  - (iii) NUS will disclose information received as part of the Disclosure or Reporting process when required to do so by law or court order.
  - (iv) NUS may share pertinent information about Sexual Misconduct cases with the NUS Community, as well as with alumni, Board of Trustee members and stakeholders of NUS. The identities of the parties will be anonymised and minimal details of the allegations, findings of investigations, and outcomes may be shared. NUS may also share pertinent information in accordance with Section 13 of this Policy.
- 5.3 In circumstances where NUS cannot maintain confidentiality, reasonable effort will be made to seek the consent of the Complainant for disclosure. Should that consent not be granted, or where it is not reasonably possible or feasible for NUS to obtain such consent before disclosure, NUS shall inform the Complainant where possible and as soon as it is reasonably able, as well as keep a record of its decision to disclose information to other parties without the Complainant's consent and the reasons behind this.

## **6 DISCLOSING AND REPORTING SEXUAL MISCONDUCT TO NUS**

### **6.1 Disclosure**

- (i) A Disclosure can be made to any member of the NUS Community, whether or not the Respondent is a member of the NUS Community. Except in the case of an arrestable offence (please see Section 8), Disclosure does not result in a Report being made. A Complainant is not required to make a Report about an incident of Sexual Misconduct in order to access certain support or services, such as referral for counselling and obtaining information on relevant resources.
- (ii) A Complainant may make a Disclosure to a member of the NUS Community who is outside of the NCU. The person to whom the Disclosure is made may consult with the NCU for advice but except as directed by the Complainant or permitted under this Policy, is expected to hold such information in confidence.

6.1.1 If NUS is made aware of an incident of Sexual Misconduct that poses a risk to the health and safety of members of the NUS Community, NUS will take steps to maintain their health and safety. This may include making a police report under Section 8 of this Policy.

## 6.2 Reporting

6.2.1 The Reporting process is initiated by the making of a Report to the relevant designated unit in NUS. For cases involving students, investigations will be independently carried out by the Office of Campus Security ("**OCS**") and disciplinary proceedings will be administered by Office of Student Conduct ("**OSC**"). For cases involving staff, investigations will be independently carried out by the Office of Risk Management and Compliance ("**ORMC**") and disciplinary proceedings will be administered by the Office of Human Resources ("**OHR**").

6.2.2 A Reporting Party or Complainant is not precluded from reporting an incident of Sexual Misconduct to the police if they have made a Report in relation to the incident and vice versa.

6.2.3 Once the Reporting process has been initiated, NUS has a duty to investigate and take action in accordance with this Policy. The intention of NUS is to complete such steps as expeditiously as practicable.

6.2.4 Where the Reporting Party is a Witness, NUS will proceed with the investigation only after:

- (i) speaking to the Complainant and obtaining the Complainant's agreement to proceed with the case; or
- (ii) determining that there appears to be a risk of imminent harm to any person. Where NUS decides to proceed with the investigation in such a situation, NUS will inform the Complainant of its decision.

6.2.5 A Reporting Party will need to provide their name, the name of the Respondent (if known) and the name of the Complainant (if the Reporting Party is not the Complainant). Where a party does not wish to provide such names, NUS may not be able to act on the Report.

6.3 Complainants and Witnesses are encouraged to make a Disclosure or Report, especially where experiencing or witnessing the incident of Sexual Misconduct has had a serious impact on their experience at NUS. Members of the NUS Community are encouraged to advise and support Complainants and Witnesses to make a Disclosure or Report should they encounter an incident of Sexual Misconduct.

6.4 NUS recognises that an individual who has experienced an incident of Sexual Misconduct may require time and reflection before deciding whether or not they wish to make a Disclosure or a Report of the said incident. Notwithstanding those considerations, individuals who have experienced an incident of Sexual Misconduct are encouraged to make a Disclosure and/or Report as soon as they are able to do so, recognising that the passage of time may affect NUS' ability to address the issues raised by a Disclosure or a Report.

## **7 PROCEDURE FOR REPORTS, INVESTIGATIONS AND DISCIPLINARY PROCEEDINGS**

- 7.1 The procedures for reporting and handling an incident of Sexual Misconduct committed by a staff, including disciplinary proceedings, are in the NUS Staff Disciplinary Procedures and Sanctions Policy, the Procedures for the Management of Sexual Misconduct 2.0 and the Code of Conduct for NUS Staff.
- 7.2 The procedures for reporting and handling an incident of Sexual Misconduct committed by a student are in the NUS Statute 6 and Regulations 10 and 10A, the Procedures for the Management of Sexual Misconduct 2.0, NUS Code of Student Conduct and Sanctions Framework for Sexual Misconduct Offences.
- 7.3 NUS will ensure that:
- (i) Investigation and disciplinary proceedings are carried out by appropriately trained and qualified individuals;
  - (ii) Its processes are conducted so as to minimise trauma to the Complainant, while ensuring that the Respondent is given a fair hearing; and
  - (iii) The matter will be resolved sensitively, fairly, confidentially and expeditiously.
- 7.4 At no time will the Complainant and Respondent be required to meet with, or to participate in any activity with one another as part of the investigation or disciplinary process, unless they have both given their prior informed consent.
- 7.5 NUS will provide regular and timely updates to both the Complainant and Respondent on the progress of its proceedings.

## **8 REPORTS TO POLICE**

- 8.1 Complainants should be advised that:
- (i) They have the right to report to the police; and
  - (ii) If they choose to report to the police, NUS will support them to make the police report.
- 8.2 Under Section 424 of the Criminal Procedure Code ("**CPC**"), NUS is required by law to report to the police any arrestable offence, which is defined in the CPC as an offence for which a police officer may ordinarily arrest without warrant. This includes offences such as voyeurism, assault or use of criminal force to a person with intent to outrage modesty, and rape.
- 8.3 In the case of arrestable offences, a Reporting Party or Complainant will be apprised by OCS or ORMC, as relevant, of NUS's legal reporting obligations. Police reporting will be completed no later than two weeks after the conclusion of deliberations by the Board of Discipline (for students) or the Committee of Inquiry (for staff). A police report may be filed earlier if circumstances warrant. NUS may consider a

delay in making a report to the police only under any of the following exceptional circumstances:

- (i) A real and present risk of self-harm by the Complainant (such as suicide).
- (ii) A real and present risk of physical harm to the Complainant or those whom the Complainant seeks to protect (such as retaliation or threats of violence by a partner).
- (iii) A likely serious and detrimental effect on the mental health of the Complainant.

8.4 If NUS decides that it is necessary to report the alleged Sexual Misconduct to the police, then the reasons for taking that action should be explained to the Complainant so that they understand what is happening and are prepared when contacted by the police.

8.5 NUS may, in certain circumstances (for example, where requested or advised to do so by the police), postpone its investigations and proceedings until the police have completed their investigations. In such cases, NUS may still proceed to impose Interim Measures under this Policy.

## 9 INTERIM MEASURES

9.1 NUS may impose protective and/or supportive interim measures (“**Interim Measures**”), examples of which are listed below, on the Complainant and/or Respondent pending the investigations and outcome of the disciplinary proceedings for the purpose of ensuring:

- (i) that a full and proper investigation can be carried out; or
- (ii) the safety (physical and psychological) of Affected Parties while the allegation is being dealt with.

9.2 Protective Interim Measures imposed must be reasonable and proportionate to protect the investigation, Affected Parties and relevant others from harm, whilst having the minimum possible impact on all parties. They do not presume any level of guilt.

9.3 Protective Interim Measures for staff may include but are not limited to:

- (i) Imposing no contact conditions on the Complainant and/or Respondent (for example, requiring the Respondent not to contact the Complainant and/or any Witness or vice versa);
- (ii) Interim suspension of the Respondent from their work;
- (iii) Excluding the Respondent from certain premises;
- (iv) Modifying the work schedules of the Complainant and/or Respondent; and/or



- (v) Reassignment of the Complainant and/or Respondent to another role, pending completion of investigation.

9.4 Protective Interim Measures for students may include but are not limited to:

- (i) Imposing no contact conditions on the Complainant and/or the Respondent (for example, requiring the Respondent not to contact the Complainant and/or any Witness, or vice versa);
- (ii) Excluding the Respondent from certain premises such as residential blocks or sports facilities;
- (iii) Moving the Complainant and/or Respondent to alternative accommodation or classes; and/or
- (iv) special consideration for assignments and exams, such as assignment extensions and exam deferrals.

9.5 NUS may also offer appropriate supportive Interim Measures to the Complainant and Respondent during the investigation and disciplinary process, including but not limited to counselling and emotional support, academic schedule modification, academic accommodations or assistance, voluntary leave of absence and/or administrative leave.

## **10 APPEALS**

10.1 Appeals will be addressed according to existing relevant NUS policies and procedures.<sup>1</sup>

## **11 RETALIATION**

11.1 NUS prohibits Retaliation (as described in Section 11.4) against any Reporting Party, Complainant, Witness, or NUS staff involved in the investigation and disciplinary proceedings, or in providing support to any person involved in a case, whether or not any violation of this Policy is found to have occurred following an investigation.

11.2 This prohibition applies to Disclosures and Reports made or information given in good faith, even if the facts alleged in the Disclosure or Report are determined not to be accurate.<sup>2</sup>

11.3 NUS will take reasonable steps to protect the Reporting Party and/or Complainant and others who participate in the processes under this Policy against actual or potential Retaliation, including advising individuals in writing of their duty to refrain

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<sup>1</sup> Staff Disciplinary Procedures and Sanctions Policy, and Discipline With Respect to Students (Regulation 10).

<sup>2</sup> See also NUS Staff Code of Conduct, Appendix 5 – Retaliation.

from committing an act of Retaliation, and sanctioning individuals for a breach of that duty. Threats of or acts of Retaliation will be subject to disciplinary action.

- 11.4 Retaliation refers to any adverse actions against an individual who acts in good faith and without malice. Forms of Retaliation include, but are not limited to:
- (i) Intimidation;
  - (ii) Unfavourable actions with respect to the individual's employment e.g.
    - (a) reassignment of work duties, variation of remuneration and/or staff benefits, unilateral transfer, etc;
    - (b) negative performance evaluation/withholding advancement;
    - (c) corrective actions or disciplinary sanctions; and
    - (d) termination of employment;
  - (iii) Unfavourable actions against someone with known family or other relationship with such individual; and
  - (iv) Threats of any of the above.

## **12 MALICIOUS DISCLOSURES AND REPORTS**

- 12.1 Unless proven otherwise, NUS shall assume that all Disclosures or Reports are made in good faith. However, malicious Disclosures and Reports will be subject to disciplinary action.
- 12.2 A criminal prosecution or internal investigation that does not find the Respondent guilty does not mean the Complainant made a malicious Report or Disclosure.

## **13 REPORTING OF STATISTICS AND TRENDS**

- 13.1 NUS shall keep appropriate records of all Disclosures and Reports of Sexual Misconduct in a secure location.
- 13.2 OSC and ORMC will provide the NUS Community with a report every six months or such intervals as determined by NUS management on cases of Sexual Misconduct involving NUS staff and/or students.
- 13.3 NUS shall periodically make public disclosures of statistics. The interval of such disclosures will be determined by NUS management by balancing the requirement for transparency with sufficient aggregation to protect the anonymity and confidentiality of the participants involved in this process.

## **14 REVIEW**

- 14.1 NUS shall undertake periodic review of this Policy in order to assess its impact and make any necessary changes for greater effectiveness.

## 15 LIST OF APPENDICES

No.	Appendix
1.	Definition of Sexual Misconduct
2.	Related Documents
3.	Policy Document History

## **APPENDIX 1 DEFINITION OF SEXUAL MISCONDUCT**

### **WHAT IS SEXUAL MISCONDUCT?**

1. Sexual Misconduct is a general term used to refer to a range of acts of a sexual nature committed against a person by force, intimidation, manipulation, coercion or without that person's Consent (defined below), or at a point when that person is incapable of giving Consent.
2. Acts of Sexual Misconduct:
  - (i) can be perpetrated by or against anyone, irrespective of:
    - (a) gender;
    - (b) gender identity;
    - (c) sexual orientation;
    - (d) relationship between Complainants and Respondents (e.g. strangers or acquaintances, or people who know each other well);
  - (ii) may differ in gravity.
3. Whether any act constitutes Sexual Misconduct is determined objectively.

### **WHAT IS CONSENT?**

4. "Consent" refers to an affirmative, informed, voluntary and ongoing choice by an individual with legal capacity.
5. For there to be Consent, the following elements must be present:
  - (iii) given by an individual with legal capacity (i.e. cannot be given by persons who are under the statutory age of consent and/or deemed minors under the Law or mentally disabled);
  - (iv) conveyed by an affirmative statement or action which clearly indicates an individual's intentions understood by both parties (e.g. silence or the absence of resistance or protest does not necessarily represent Consent, an ongoing or past social, dating or otherwise intimate relationship between individuals does not imply Consent);
  - (v) specific, informed and knowing (i.e. must be given specifically for the occasion of sexual activity without any mistake or deception as to the identity or the nature of the act);
  - (vi) given freely and voluntarily (i.e. cannot be obtained by improper detention, confinement or incarceration, force, threat, intimidation, duress, manipulation, bullying, coercion, an individual exerting his/her position of power, authority or control or any form of pressure etc. or given during a time when an individual's ability to comprehend is compromised in any way); and
  - (vii) ongoing (i.e. not withdrawn) throughout the entire duration of sexual activity.

## EXAMPLES OF SEXUAL MISCONDUCT

6. Sexual Misconduct includes, but is not limited to, the examples set out in the following sections.
7. Sexual Discrimination
  - 7.1 Sexual Discrimination means unequal or unfair treatment of an individual based on sex, gender, gender identity and/or sexual orientation, in relation to various aspects of that individual's educational and student life activities and/or employment (as the case may be).
8. Sexual Harassment
  - 8.1 Sexual Harassment refers to Harassment of a sexual nature. It means any unwelcome, non-consensual acts of a sexual nature, including but not limited to, sexual advances, requests for sexual favours, or other verbal, non-verbal or physical conduct of a sexual nature on or off the premises of NUS when:
    - (i) submission to such conduct is made either explicitly or implicitly a condition of the non-consenting individual's employment or academic standing; or
    - (ii) submission to or rejection of such conduct is used as the basis for employment decisions or for academic evaluation, grades or advancement; or
    - (iii) a supervisor, or other authority figure offers or intimates that some benefit (e.g. increased pay, a promotion, or a higher performance grading) can be obtained in exchange for a sexual favour; or
    - (iv) such conduct has the purpose or effect of:
      - (a) offending, humiliating, intimidating or otherwise violating the dignity of the person harassed;
      - (b) creating an offensive, intimidating, hostile or otherwise unfavourable academic, work or living environment; or
      - (c) unreasonably interfering with an individual's work or academic performance.
  - 8.2 Sexual Harassment may be found in a single incident or as an element of persistent behaviour.
9. Sexual Exploitation – Sexual Misconduct not involving physical contact
  - 9.1 Sexual Exploitation refers to taking advantage of another individual in a sexual, or sexually-related way for the benefit of anybody other than the individual being exploited.

9.2 Examples of Sexual Exploitation include, but are not limited to:

- (i) voyeurism;
- (ii) disseminating sexual/intimate information about another individual
- (iii) indecent exposure;
- (iv) taking of upskirt photographs;
- (v) being in any way involved with any form of prostitution of any persons;
- (vi) intentionally inducing incapacitation in another individual with the objective of engaging in sexual conduct with that individual (regardless of whether such sexual conduct eventually transpires).

10. Sexual Contact – Sexual Misconduct involving physical contact

- 10.1 Sexual Contact refers to any deliberate physical contact with another person in a sexual manner, however slight or brief, whether that touching is direct or indirect, without that person's Consent, or at a point when that person is incapable of giving Consent.

**APPENDIX 2  
RELATED DOCUMENTS**

This Policy Document should be read in conjunction with the following Related Documents:

<b>No.</b>	<b>Name of Document</b>
1	<a href="#">NUS Code of Student Conduct</a>
2	<a href="#">NUS Statute 6</a>
3	<a href="#">NUS Regulations 10</a>
4	<a href="#">NUS Regulation 10A</a>
5	<a href="#">Procedures for the Management of Sexual Misconduct 2.0</a>
6	<a href="#">Sanctions Framework for Sexual Misconduct Offences</a>
7	<a href="#">Code of Conduct for NUS Staff</a>
8	<a href="#">NUS Staff Disciplinary Procedures and Sanctions Policy</a>

### APPENDIX 3 POLICY DOCUMENT HISTORY

POLICY DOCUMENT HISTORY				
Version No.	Approved by (Name, Designation)	Approval Date	Effective Date	Policy Document Change
V1	Prof Tan Eng Chye  President	14 July 2021	5 August 2021	New Document

SUPERSEDED POLICY DOCUMENTS	
<b>Name of superseded Policy Document</b>	Nil