

## Sexualized Violence Prevention and Response Policy

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### **Associated Procedures:**

[Sexualized Violence – Support Procedures](#)

[Sexualized Violence – Disclosure and Reporting Procedures](#)

[Sexualized Violence – Investigation, Adjudication, and Appeal Procedures](#)

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## DEFINITIONS

For the purposes of this policy, the following definitions apply.

**“complainant”** means a person who makes a report alleging a violation of this policy.

**“consent”<sup>1</sup>** means the voluntary agreement to engage in physical contact or sexual activity and to continue to engage in the contact or activity. Consent means that all persons involved demonstrate, through words or actions, that they freely and mutually agree to participate in a contact or activity. More specifically:

- (a) consent must be given at the outset and at all stages of physical contact or sexual activity;
- (b) it is the responsibility of the initiator to obtain ongoing consent;
- (c) consent can be withdrawn at any time by any participant;
- (d) someone who is incapacitated cannot consent;
- (e) there is no consent where one person abuses a position of trust, power, or authority over another person;
- (f) past consent does not imply future consent;
- (g) a person cannot give consent on behalf of another person;
- (h) silence or the absence of “no” is not consent;

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<sup>1</sup> For the purposes of this policy, we define consent within the framework of sexual consent. The university, however, recognizes that consent is an important everyday interpersonal practice beyond this framework.

- (i) the absence of perceived resistance is not consent; and
- (j) there is no consent when there is coercion, force, threats, or intimidation towards any person, or where there is fraud or withholding of critical information that could affect a person's decision to consent.

**“disclosure”** means telling someone about an instance of sexualized violence. A disclosure does not initiate an investigation unless a report is made (see section 12 for how to do this).

**“incapacitated”** means a person does not have the capacity to give consent because, for instance, the person is impaired by alcohol or drugs, or is asleep or unconscious, or is experiencing a traumatic response. A person does not have the capacity to give consent when the person cannot appreciate the who, what, when, where, why, or how of a physical contact or sexual activity.

**“intake office”** means the central intake office that will provide a specific location where all members of the university community, visitors, and others can seek advice and direct referrals and/or disclose or make a report of sexualized violence.

**“intersectional”** means the ways in which a person's experiences are shaped by the interaction of different social positions (e.g. sex, sexual identity, gender identity or expression, Indigeneity, racial and ethnic background, ability, faith, migration status, etc.). These interactions are rooted in interconnecting systems and structures of power and produce intersecting forms of privilege and oppression shaped by colonialism, racism, homophobia, ableism, patriarchy, transphobia, queer antagonism, trans antagonism, bi antagonism, and/or any other form of discrimination.

**“respondent”** means a person who is alleged to have violated this policy.

to **“report** sexualized violence means making a formal report to the university with the intention of initiating an investigation or community accountability process.

**“retaliation”** means any adverse action or threatened action, taken or made through any means, including through social or other electronic media, against a person who engages with this policy or is associated with anyone who engages with this policy.

Retaliation includes but is not limited to threatening, intimidating, or harassing conduct that could discourage a person from seeking support or other services, disclosing or reporting sexualized violence, participating in an investigation, or otherwise engaging with this policy.

**“sexual misconduct”** means, for the purposes of this policy, any of the acts and behaviours identified in the definition of sexualized violence.

**“sexualized violence”** means any non-consensual, unwanted actual, attempted, or threatened act or behaviour, that is carried out through sexual means or by targeting a person's sex, sexual identity, or gender identity or expression. This act or behaviour may or may not involve physical contact. Sexualized

violence includes all forms of sexual misconduct as set out in the *Sexual Violence and Misconduct Policy Act*, including but not limited to:

- (a) sexual assault;
- (b) sexual exploitation;
- (c) sexual harassment;
- (d) stalking;
- (e) indecent exposure;
- (f) voyeurism;
- (g) the distribution of a sexually explicit photograph or video of a person to one or more persons other than the person in the photograph or video without the consent of the person in the photograph or video.

Sexualized violence can take place through any form or means of communication (e.g., online, social media, verbal, written, visual, through a third party, etc.).

**“student”** includes any of the following:

- (a) a person who is registered, enrolled, or participating in any course or program (credit or non-credit) offered by the university;
- (b) an undergraduate who has been enrolled at the university for one or more of the last three terms and is eligible to continue in a program of study;
- (c) a graduate student who is enrolled at the university in the current term and is eligible to continue in a program of study;
- (d) a graduate student who is on an approved or personal leave and is eligible to enroll at the university when the leave ends; or
- (e) a visiting or exchange or audit student who has been formally admitted to the university for the purposes of taking courses or to take part in an approved research term.

**“survivors and those impacted by sexualized violence”** means survivors and those who have experienced sexualized violence, witnesses, family and friends of survivors and those who have experienced sexualized violence, and those who have received disclosures. It does not mean the respondent or those who are found responsible for causing harm to a university community member. The university recognizes that some people impacted by sexualized violence may not identify with this terminology, and have the right to determine how they will be referred to.

**“survivor-centred”** means prioritizing the safety and choices of survivors and those impacted by sexualized violence.

**“third party statement”** means when someone (e.g. friend, staff, faculty, colleague) shares information with the university about sexualized violence on behalf of the person who experienced sexualized violence.

**“trauma-informed”** means incorporating an understanding of the impact that sexualized violence has on a person’s life, to minimize re-victimization, and facilitate recovery and empowerment.

**“university activity”** means any activity that is directly related to or arising out of the operations of the university at any location, or any activity where a university community member is formally representing the university.

**“university community”** means:

- (a) credit and non-credit students, including distance students and continuing studies students;
- (b) employees (faculty, librarians, and staff);
- (c) anyone holding a university appointment;
- (d) post-doctoral fellows;
- (e) all persons who are employed under contracts with university faculty members as the employer and who provide research or administrative services directly supporting faculty members’ research activities;
- (f) visiting researchers;
- (g) anyone contractually required to abide by university policies;
- (h) anyone volunteering with a university program or activity;
- (i) members of the Board of Governors and Senate; and
- (j) anyone who ordinarily resides on campus because of their relationship with the university.

## FOUNDATIONAL STATEMENTS

### 1. Preamble

- 1.1 Sexualized violence is unacceptable and prohibited conduct at the University of Victoria (the university).
- 1.2 The university recognizes that sexualized violence is a significant and systemic social and campus issue that can affect anyone at the university. This policy sets out the university's framework and strategy to address sexualized violence.
- 1.3 The university recognizes its responsibility to increase awareness of sexualized violence, prevent its occurrence within the university community, support survivors and those impacted by sexualized violence, diligently investigate reports of sexualized violence, deal fairly with those accused of sexualized violence, and deal fairly and firmly with those who have been found responsible for violating this policy.

### 2. Purpose

- 2.1 The purpose of this policy is to instill and cultivate institutional, collective, and individual responsibility to create an environment in which consent and respect are foundational principles and practices at the university.
- 2.2 This university is committed to addressing sexualized violence by:
  - (a) implementing and actively promoting education, awareness, prevention, and training programs, in multiple formats and tailored to multiple audiences, that support survivors and those impacted by sexualized violence in a trauma-informed manner;
  - (b) responding to disclosures and reports of sexualized violence;
  - (c) communicating the support services and the resources available to all members of the university community who may be directly or indirectly impacted by sexualized violence;
  - (d) supporting survivors and those impacted by sexualized violence, through academic, non-academic, and other supports as required; and
  - (e) coordinating consistent, fair, and transparent responses to sexualized violence disclosures and reports.

### 3. Principles of the Policy

The following principles are intended to assist in the interpretation of this policy.

- 3.1 Because anyone can experience sexualized violence, this policy applies to all university community members regardless of a person's social position or position within the university structures, hierarchies, and power relations.

- 3.2 Some individuals or groups experience sexualized violence at higher rates. Every effort to address sexualized violence should be grounded in an intersectional understanding that each person's experience will be affected by many factors, including but not limited to their sex; gender identity and expression; sexual identity; family status; Indigenous, racial, or ethnic background; language barrier; ability; faith; age; socioeconomic status; academic standing; as well as their position within university structures, hierarchies, and power relations.
- 3.3 Sexualized violence does not exist or operate in isolation. Acts of sexual violence can also be acts of colonial violence, racism, sexism, ableism, ageism, classism, religious intolerance, homophobia, transphobia, queer antagonism, trans antagonism, bi antagonism, and/or any other form of discrimination.<sup>2</sup> Hence, university strategies to address sexualized violence must be linked to broader equity and anti-discrimination initiatives and goals.
- 3.4 Every individual should expect to be able to learn, work, and live in a university environment that is free from all forms of sexualized violence. The university expects every member of the university community to practise consent and respect for the dignity and diversity of all community members, and to foster an environment in which these are fundamental principles. All university academic and non-academic administrators are expected to take active steps to incorporate the principles of this policy into their units.
- 3.5 The university is committed to transparency and accountability with respect to the implementation of this policy and its related procedures.

#### 4. Expectations for Those Who May Engage With the Policy

- 4.1 The university is committed to supporting all survivors and those impacted by sexualized violence while instituting fair and unbiased response processes.
- 4.2 The university recognizes the serious impacts of sexualized violence and trauma on survivors and those impacted by sexualized violence, the university community, and others, and is committed to responding in a manner that promotes empowerment and recovery and minimizes re-traumatization.
- 4.3 The university is committed to trauma-informed practices and responses. This includes providing options to survivors and those impacted by sexualized violence on how to access supports, and whether or not to proceed with reporting processes.
- 4.4 Survivors and those impacted by sexualized violence have the right to choose how and when they engage with the university and the university's reporting processes (see section 10.5 on delayed reporting).
- 4.5 Individuals will not be blamed for experiencing sexualized violence.

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<sup>2</sup> This is not an exhaustive list. Since language is fluid, these terms may change over time.

- 4.6 All persons who disclose or report an experience of sexualized violence to the university should expect from the university:
- (a) to be treated with compassion, dignity, and respect;
  - (b) to be respected in their choice as to whether and to whom they wish to disclose or report their experience;
  - (c) timely assistance with safety planning;
  - (d) timely information about and referrals to available on- and off-campus support services and resources;
  - (e) non-judgmental and empathetic support; and
  - (f) if they do decide to report their experience, a clear explanation of the investigation and adjudication process, regular updates on the status of the process, and ongoing support.
- 4.7 All those who are accused of causing harm, and those who are found responsible under this policy can expect from the university:
- (a) to be treated with compassion, dignity, and respect, and provided with support and resources throughout the process;
  - (b) a fair and unbiased process (in accordance with collective agreement provisions, where applicable);
  - (c) a clear explanation of the process, options available to them, and potential outcomes; and
  - (d) opportunities to engage in community accountability processes<sup>3</sup> where appropriate and permissible under collective agreements.
  - (e) Where suitable, trauma-informed support will be available throughout the process.

## SCOPE

### 5. Prohibited Conduct

- 5.1 All acts of sexualized violence are prohibited under this policy.
- 5.2 Retaliation of any kind is prohibited. This includes retaliation against any member of the university community who reports sexualized violence in person or as a third party, witnesses, and others involved. Any member of the university community found to have engaged in retaliation may be sanctioned under this policy or other university policies or the applicable collective agreements.

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<sup>3</sup> A voluntary process to help participants recognize and take responsibility for behaviour or acts that have caused harm. This could include facilitated discussion, education, training, counselling, and/or a recognition of impact statement or letter.

5.3 A person may also be sanctioned for retaliation if that person breaches, subject to the requirements in section 11.2, the confidentiality of a disclosure or report from a survivor or person impacted by sexualized violence.

## 6. Jurisdiction of the Policy

6.1 This policy and its associated procedures apply to all members of the university community.

6.2 All members of the university community who are survivors or those impacted by sexualized violence may access support under this policy. However, the university only has jurisdiction to investigate reports of actions, interactions, and behaviours that are alleged to have occurred in one or more of the following circumstances:

(a) on any property that is controlled by the university and used for university purposes;

(b) when the respondent is or was in a position of power or influence over the survivor's academic or employment status at the university;

(c) at an event or during an activity sponsored or under the auspices of the university, including but not limited to:

(i) athletic events;

(ii) field schools;

(iii) study abroad or student exchange;

(iv) distance and online courses;

(v) placements (including co-op and practica);

(vi) academic or professional conferences;

(vii) volunteer activities; and

(viii) academic or research field work.

6.3 If an incident does not meet one or more of the above criteria, the university may still take actions to mitigate the impact of the incident on the learning, living, or working environment. If an individual is unsure about whether an incident meets the above criteria, then that individual is encouraged to contact the intake office.

6.4 The university does not have jurisdiction to investigate allegations against a person who is not a member of the university community or who is not currently affiliated with the university. However, under certain circumstances, the university can revoke visitors' access to university property.

6.5 The university may accept disclosures or reports from persons seeking to become members of the university community in circumstances directly affecting their application to become a



member, and from former members of the university community in circumstances directly affecting their departure from the university.

- 6.6 The university may accept disclosures and reports from individuals who are not members of the university community if the respondent is a member of the university community, or if the incident occurred on university property or in connection with a university activity.
- 6.7 This policy and its associated procedures are separate from any criminal or civil proceedings. The university is responsible for determining whether a university community member has violated this policy, and is not responsible for determining violations of criminal or civil law.
- 6.8 University processes under this policy or associated procedures may be suspended when criminal proceedings are underway; the university will continue to provide support to members of the university community as described in this policy.

## 7. Employees of the University Covered by a Collective Agreement

- 7.1 This policy and its associated procedures are designed to complement and not conflict with the university collective agreements. Where a university collective agreement applies, such as in a disciplinary process, the processes in the collective agreement will be followed. For those who engage with this policy, the specifics of any collective agreement processes will be identified and explained.

## EDUCATION AND TRAINING

### 8. Commitment to Education and Training

- 8.1 The overall goal of sexualized violence education is to build a working, learning, living, and social environment at the university based on the principles and practices of consent and respect through the awareness and prevention of sexualized violence.
- 8.2 The university is committed to providing access to coordinated education and training programs pertaining to preventing, and responding to, incidents of sexualized violence to all university community members.
- 8.3 The education and training will:
  - (a) be proactive, sustained, and prevention-focused with consent and respect as core elements;
  - (b) take into account intersectional identities and barriers, power relationships, and other relevant factors;
  - (c) be grounded in an anti-oppressive understanding;
  - (d) facilitate the dissemination of common definitions, principles, and shared values across the university community;
  - (e) be specific, tailored, and accessible to diverse campus populations; and
  - (f) be regularly reviewed and assessed.

- 8.4 In addition, the university is committed to education, which may include but is not limited to:
- (a) implementing a comprehensive education program for faculty, librarians, staff, and students (pre-arrival, on-site orientation, and ongoing education materials, workshops, and on-line training);
  - (b) ensuring that all members of units and offices most likely to receive sexualized violence disclosures undergo training with a curriculum based on consistent foundational principles;
  - (c) making information on trauma-informed responses to disclosure available to all faculty, librarians, staff, and students;
  - (d) addressing harmful attitudes and behaviours that reinforce beliefs about sexualized violence such as rape myths and victim blaming that perpetuate an environment where violence is normalized; and
  - (e) implementing harm reduction education in relation to alcohol and other substance use.

## DISCLOSURES AND REPORTS

### 9. Immediate Assistance

- 9.1 The university encourages, but does not require, survivors and those impacted by sexualized violence to seek immediate assistance. Seeking assistance promptly may be important to ensure physical safety, to obtain medical care or emotional support, or to preserve evidence. Full information on accessing immediate assistance and external and internal resources will be made available.

### 10. Process Options

- 10.1 Survivors or those impacted by sexualized violence are entitled to receive all information about their options and the processes available to them.
- 10.2 Employees in the intake office are available to assist survivors and those impacted by sexualized violence in understanding their options. Individuals are encouraged to contact the intake office for advice and referrals.
- 10.3 Options for survivors and those impacted by sexualized violence may include:
- (a) a disclosure to a member of the university community;
  - (b) a report to the university;
  - (c) a statement to the university through a third party;
  - (d) a grievance through their union;
  - (e) a third party report to the police;
  - (f) a report of a crime directly to the police;
  - (g) a human rights complaint with the BC Human Rights Tribunal;

- (h) a civil suit.
- 10.4 The university will make a mechanism available to survivors and those impacted by sexualized violence to make anonymous statements to the university, so that the university has a record of what happened but not the identity of the person making the statement. The university's response to an anonymous statement may be limited if the university cannot follow up with the person making the disclosure.
- 10.5 Disclosures or reports of sexualized violence can occur immediately after the incident or several months or years later. In the latter case, they might be triggered by another experience. University support systems will be designed to be flexible and open to a diversity of experiences and needs.
- 10.6 The university recognizes that survivors and those impacted by sexualized violence may not be ready to disclose or report immediately after an incident of sexualized violence. There is no time limit to an individual disclosing or reporting their experiences and accessing support under this policy.
- 10.7 The university may not have jurisdiction to investigate an incident if parties involved are no longer affiliated with the university. Due to a significant lapse of time, there may be cases where the university is not able to investigate.
- 10.8 While evidentiary and procedural challenges may arise if a report is significantly delayed, the delay in and of itself will not be considered as an indication that the incident did not occur.
- 10.9 The procedures associated with this policy describe the processes that the university will follow. Detailed information about options and what to expect for survivors and those impacted by sexualized violence, complainants, respondents, and all parties involved will be provided in multiple formats.

## 11. Disclosures

- 11.1 Survivors and those impacted by sexualized violence may disclose their experiences to any member of the university community. Individuals may disclose for a variety of reasons, including to access support. It is the university's expectation that individuals who disclose are taken seriously, and are treated according to the values listed in section 4.6. A disclosure is not a report and will not initiate an investigation.
- 11.2 A university community member may be required to disclose information they receive if any of the following circumstances apply:
- (a) a person is at risk of self-harm or of harming others;
  - (b) there is an imminent risk of harm to the university community and/or the broader community;

- (c) the disclosure involves sexual harassment in their place of employment;<sup>4</sup>
- (d) a person under the age of 19 is endangered; or
- (e) disclosure is otherwise required by law.

In these instances, the minimum amount of information needed to meet legal or other obligations will be disclosed, and every effort will be made to involve the survivor in decision-making and to mitigate any associated risks. Any university community member who is unsure about their responsibility to disclose should seek advice from the intake office.

- 11.3 Faculty, librarians, and staff who receive a disclosure should ensure that the individual disclosing to them is aware of this policy and of the option to seek further assistance from the intake office.
- 11.4 Members of the university community who receive a disclosure may contact the intake office, or the appropriate person in their unit, for advice personal support. Unless one of the exceptions in section 11.2 applies, members of the university community who receive disclosures must obtain the consent of the person who disclosed to them before sharing any information about the person who disclosed.

## 12. Reports

- 12.1 University community members who wish to make a sexualized violence report should contact the intake office. A report may be made at any time – see section 10.6.
- 12.2 Individuals who seek to become members of the university community, such as prospective students or prospective faculty, librarians, or staff, may make a report to the intake office.
- 12.3 The head of the intake office may make a report on their own initiative when required to comply with the university's legal obligations and/or its policies, or when presented with an allegation that may put the university or its community members at risk.
- 12.4 Employees (faculty, librarians, and staff) may choose to report sexualized violence to their supervisor who will take appropriate actions under university policies.
- 12.5 University reporting options for all members of the university community also include:
  - (a) making a report under this policy and its associated procedures; or
  - (b) making a complaint of sexual harassment under the [Discrimination and Harassment Policy](#);  
or
  - (c) for unionized faculty, librarians, and staff, filing a grievance through their union.
- 12.6 The university will promptly respond to reports of sexualized violence made to it under this or any other university policy. All university investigations and adjudicative processes will follow

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<sup>4</sup> As required under the [Workers Compensation Act](#).

principles of fairness and natural justice,<sup>5</sup> and will protect the rights of the complainant, the respondent, and witnesses.

- 12.7 Investigators will apply the balance of probabilities standard of proof (i.e., whether the information shows that it is more likely than not that a violation of this policy occurred).
- 12.8 Statements may be made anonymously or through third parties.
  - 12.8.1 The university may be unable to investigate an anonymous or third party statement due to a lack of information.
  - 12.8.2 Where other sufficient information exists, the head of the intake office may decide to proceed with an investigation. In such cases, the survivor or person impacted by sexualized violence has the right to choose not to participate in the investigation. The university will act in a survivor-centred manner.
  - 12.8.3 If the university does not investigate, a record of the anonymous or third party statement will be retained under restricted access.
  - 12.8.4 The university may engage the response coordination team (see section 16) and consider whether any other steps can and should be taken, which may include increased Campus Security presence at certain times or in certain places and/or, in appropriate cases, contacting the third party who submitted a third party statement to find out if the survivor or person impacted by sexualized violence would consider submitting a report or participating in an investigation.
- 12.9 Individuals have the right to and are welcome to involve a support person of their choice at any point in the process, and they may also engage a union representative and/or legal counsel in any meetings or processes related to a report of sexualized violence.
- 12.10 If, after reviewing a report of sexualized violence, the university decides not to investigate, this should not be seen as a judgment against any person or a denial that the incident occurred. There are many reasons why the university may not investigate – see the Disclosure and Reporting Procedures for more information. In all cases, supports will be available.
- 12.11 The complainant has the right to withdraw their report at any stage in the process. However, there are circumstances when the university will be compelled to proceed without the complainant's involvement, for reasons which may include but are not limited to those listed in section 11.2 and where required by law.
- 12.12 The complainant has the right to choose how they participate in the investigation, including the right not to participate; however, if the complainant decides not to participate, the university's

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<sup>5</sup> These principles include the right to be heard and to be judged impartially, and the decision maker's duty to be fair and to be free from bias.

investigation may be limited. Complainants may choose to be kept informed about the investigation whether or not they participate.

- 12.13 The university recognizes that being involved in an investigation process can be difficult. The university is committed to treating all individuals involved in a manner that is respectful, trauma-informed, and procedurally fair. All participants have the right to:
- (a) have the complaint process explained to them;
  - (b) ask questions about the process;
  - (c) receive information about available supports and accountability options; and
  - (d) communicate their own experiences.<sup>6</sup>

### 13. Interim Measures

- 13.1 When requested by the complainant for safety reasons or where the university receives information that requires it to act to protect university community members' health or safety, or university property, the university may impose interim measures before an investigation is concluded. Interim measures will be imposed in accordance with university policies and any applicable collective agreement.
- 13.2 Interim measures seek to protect the safety of all parties involved and to protect the integrity of the ongoing investigation or disciplinary process. The need for interim measures, and which measures are imposed, will be determined on a case by case basis, taking into account the circumstances of each situation.
- 13.3 Any decision to impose interim measures will not be construed as a decision or discipline against the complainant or respondent and will not be weighed against the respondent in a discipline process. Interim measures will remain in effect for as long as is reasonably required pending the outcome of an investigation. Individuals affected by interim measures may request, in writing, a review of such measures.

### 14. Statement on Concurrent Process

- 14.1 The university may proceed with an investigation into a report of sexualized violence while the incident is also being investigated by the police. The investigation process under this policy may occur simultaneously to, prior to, or following any criminal, employment, or other proceeding. The university may suspend its investigation pending the outcome of another process, or based on a participant's health or ability to participate.

### 15. Amnesty

- 15.1 The university recognizes that some survivors and those impacted by sexualized violence may be reluctant to come forward. One of these factors may be a fear of being sanctioned for alcohol or other substance use. The university seeks to create an environment where individuals feel

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<sup>6</sup> See sections 17 (Confidentiality and Privacy) and 5.3 (Retaliation) for further guidance.

comfortable disclosing and reporting incidents of sexualized violence. Hence, the university will not subject any individual who discloses or reports sexualized violence to disciplinary action for alcohol or substance use occurring at or near the time of the incident(s).

## 16. Response Coordination

- 16.1 The university may form an on-campus response coordination team to review risk, coordinate support and services, and consider recommendations for interim measures. The response coordination team will include appropriate individuals based on the nature of the disclosure or report.

## 17. Confidentiality and Privacy

For the purposes of this section (section 17) and in accordance with British Columbia's [Freedom of Information and Protection of Privacy Act \(FIPPA\)](#),<sup>7</sup> "disclose" means to transmit or provide personal information to someone other than employees (faculty, librarian, staff) who require the information in the performance of their duties.

- 17.1 Confidentiality is an important part of fostering an environment where individuals feel safe disclosing incidents of sexualized violence and seeking support. The university respects the privacy of all members of the university community. Personal information received by the university will be kept confidential subject to limitations outlined in this section.
- 17.2 The information and records created and received to administer this policy are subject to the access to information and protection of privacy provisions of British Columbia's [FIPPA legislation](#), and the university's [Protection of Privacy Policy \(GV0235\)](#). The information and records will be treated as highly confidential, in compliance with FIPPA, with applicable university policies and with the applicable collective agreement.
- 17.3 Subject to the requirements of section 11.2, university faculty, librarians, or staff who receive a disclosure or a report of sexualized violence or who are involved in addressing or investigating it must:
- (a) make every reasonable effort to protect personal information and maintain confidentiality;
  - (b) collect the minimum information about individuals that relates directly to and is necessary to respond to a disclosure or report, which is considered to be supplied in confidence;
  - (c) use the information about individuals only for the purposes of, or those consistent with, addressing the situation, investigating, or taking disciplinary action;
  - (d) limit use of information about individuals to those within the university who need to know to perform their duties as a faculty member, librarian, or staff member; and
  - (e) disclose personal information in all other circumstances only as permitted under FIPPA.
- 17.4 The university may use or disclose personal information, including where:
- (a) it is authorized by the affected individual;

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<sup>7</sup> Legislation that regulates the collection, use, disclosure, storage and retention of personal information.

- (b) the university determines compelling circumstances exist that affect any university community member's health or safety as authorized by the university's General Counsel (or delegate);
  - (c) it is authorized or required by a law or university policy; for example, an incident involving a minor, occupational health and safety legislation, and human rights legislation;
  - (d) it is for the purpose of preparing or obtaining legal advice for the university;
  - (e) it complies with a subpoena, a warrant, or an order issued by a court, person, or body in Canada with jurisdiction to compel the production of information;
  - (f) the university uses or discloses the information for the purpose for which the information was obtained or compiled, or a consistent purpose (for example, where it is necessary to fulfill the university's duty of procedural fairness or where necessary for the conduct of the investigation);
  - (g) a faculty member, librarian, or staff member needs the information to perform their employment duties;
  - (h) the information is disclosed to a law enforcement agency in Canada to assist in a specific investigation;
  - (i) the information is being disclosed to the complainant, the respondent, or another person, under conditions consistent with section 17.8; or
  - (j) for public comment under section 17.15.
- 17.5 Should the university be compelled to disclose confidential information, survivors and those impacted by sexualized violence will be informed to the extent permitted or compatible with the purpose of the demand for information, and can choose to be supported at every step.
- 17.6 Should the university be compelled to disclose confidential information, respondents may be informed to the extent permitted or compatible with the purpose of the demand for information, and can choose to be supported.
- 17.7 Information may be used among university faculty, librarians, and staff only if necessary for the performance of their duties, such as to facilitate support or interim measures, to respond to a report, implement this policy, or take corrective action resulting from these processes.
- 17.8 The university may disclose information in order to ensure that reporting processes are fairly conducted, in accordance with the following principles:
- (a) the respondent has the right to know the identity of the person who made the report (unless the university is acting as the complainant) and the material details of the allegations being made;
  - (b) the complainant has the right to know the outcome of the investigation, but not the details of any disciplinary actions that may have been taken against the respondent unless disclosing that information is necessary for health or safety reasons or because it affects the survivor or person impacted by sexualized violence; and



(c) other persons normally do not have the right to know any confidential information except to the extent required to give effect to this policy or where it is necessary for health or safety reasons.

17.9 Witnesses must keep in confidence any information that they learn solely as a result of the reporting or investigation process.

17.10 Where interim measures impose restrictions on the respondent's movement or activities, if for health or safety reasons, or where restrictions otherwise affect the complainant or others (e.g. witnesses), the university will inform them of the relevant restrictions.

#### Third Party Statements

17.11 Statements received anonymously or through a third party will be retained for the limited purposes of assessing whether the university should take action, and for compiling statistics. Personal information contained in anonymous or third party statements that are not subject to an investigation will not be retained for longer than necessary to accomplish the above purposes.

#### Public Statements

17.12 Subject to section 17.14, survivors and those impacted by sexualized violence are free to tell the story of their own experiences.

17.13 University community members must not disclose information that they learn solely as a result of an investigation or reporting process because under BC privacy law, this is personal information that must be kept confidential. See the procedures for more detailed information, and contact the intake office for guidance about confidentiality and privacy.

17.14 Individuals are advised that, should they choose to make public statements about the investigation (including on social or other electronic media), they may compromise the investigation or be putting themselves at risk of civil lawsuits by those who believe they have been defamed or have had their privacy rights violated. Individuals should exercise care and judgment when deciding to make public statements, and should seek legal or other advice if unsure.

17.15 Any public statements made by the university about a disclosure or report, including campus safety bulletins and statements to the media, will be trauma-informed, survivor centred, and otherwise consistent with the principles of this policy, and will not disclose the personal information of the survivor or person impacted by sexualized violence without consent of the person impacted by sexualized violence. The university reserves the right to correct misleading or inaccurate public information.

## SUPPORT

### 18. Commitment to Support Survivors and Those Impacted by Sexualized Violence

- 18.1 The university is committed to supporting all members of the university community who experience or are impacted by sexualized violence, regardless of who they are or where and when the incident occurred.
- 18.2 The university is committed to maintaining a comprehensive and up-to-date list of on- and off-campus support resources, and making them accessible to all university community members.
- 18.3 The immediate and longer-term needs of every survivor or person impacted by sexualized violence are unique and hence the pathway through their support options will also be personalized.
- 18.4 The university acknowledges that every survivor or person who is impacted by sexualized violence will engage with the university and this policy from their unique situation or position. Given existing hierarchies and power dynamics at the university, they may enter the policy at a disadvantage. The university is committed to:
  - (a) recognizing the specific barriers and power relationships that impact a survivor in making a disclosure or report, and devising strategies that take such barriers and power relationships into account;
  - (b) providing supports based on the unique needs of the survivor or person impacted by sexualized violence; and
  - (c) offering consistent, fair, and supportive referrals to on- and off-campus services.
- 18.5 Support provisions to survivors and those impacted by sexualized violence will operate based on the following principles:
  - (a) all university community members impacted by sexualized violence can receive support;
  - (b) survivors and those impacted by sexualized violence will be able to access support regardless of when, where, or by whom they experienced sexual violence;
  - (c) the intake office will work with individual survivors and those impacted by sexualized violence to determine their support needs and assist them in accessing these;
  - (d) survivors and those impacted by sexualized violence who disclose may seek support, but will not be required or pressured to make a report. In some limited cases, the university may be required to take action without the survivor's permission (see section 17). If this is necessary, the individuals affected would be informed in an accessible manner and may choose to be supported at every step of any process;
  - (e) survivors and those impacted by sexualized violence have the right to determine what and how much they choose to disclose or report about their experience, and to decide whether and how they would like to make a report with the university and/or the police;

- (f) every reasonable effort will be made to provide survivors and those impacted by sexualized violence who are students with the opportunity to retain their status as students and continue with their studies at the university if they wish to do so; and
  - (g) faculty, librarians, and staff who are covered by a collective agreement are able to access support under this policy and through their unions.
- 18.6 The intake office is dedicated to supporting individuals in determining their pathways through support options on- and off-campus. Employees in the intake office will be trained in survivor-focused and trauma-informed responses to sexualized violence disclosures. The intake office, in coordination with other offices, will work with individuals to develop safety plans, access services and supports, and help them navigate any subsequent process in which the individual chooses to participate.
- 18.7 The university acknowledges that a survivor or person impacted by sexualized violence may find it easier to disclose to a member of the university community who they trust or with whom they feel safe. Therefore, the university will provide clear information on trauma-informed practices and support options to all members of the university community.
- 18.8 Respondents may access support based on their individual circumstances. The university will take an intersectional and harm reduction approach to supporting respondents, and acknowledges that some respondents may have experienced sexualized violence themselves. Respondents will be treated fairly and given clear explanations of the processes they are involved in, including options for resolution through a community accountability agreement. Respondents may request support, and may access the resources of the intake office, Student Life case managers, union representatives, and the Office of the Ombudsperson at any time.
- 18.9 The intake office, in coordination with other offices, will work with those impacted by sexualized violence to promote their safety and well-being as members of the university community. This may involve supporting survivors and those impacted by sexualized violence in obtaining academic, non-academic supports, or, including where the options exist, resolution through a community accountability agreement.

## GENERAL

### 19. Annual Report

- 19.1 The President will provide information to the Board of Governors each year on the implementation of this policy. The university will provide an annual update to members of the university community.

### 20. Review of Policy

- 20.1 The university will continue to monitor best practices and research, and will review and update this policy and its associated procedures whenever it is reasonable to do so. In any event, the university will review this policy at least once every three years, and when directed to do so by the Minister of Advanced Education. This should include consultation with students, staff, faculty, and librarians.

## 21. Retention and Disposal of Records

- 21.1 Information and records must be retained and disposed of in accordance with the records retention schedule in the directory of records.

## 22. Authorities and Officers

- 22.1 The following is a list of authorities and officers for this policy:
- (a) Approving Authority: Board of Governors
  - (b) Designated Executive Officer: President
  - (c) Procedural Authority: President
  - (d) Procedural Officer: University Secretary

## RELEVANT LEGISLATION

[\*Sexual Violence and Misconduct Policy Act, SBC 2016, c 23\*](#)

[\*Freedom of Information and Protection of Privacy Act, RSBC 1996, c 165\*](#)

[\*Human Rights Code, RSBC 1996, c 210\*](#)

[\*Workers Compensation Act, RSBC 1996, c 492\*](#)

## RELATED POLICIES AND DOCUMENTS

[Acceptable Use of Electronic Information Resources \(IM7200\)](#)

[Discrimination and Harassment Policy \(GV0205\)](#)

[Employment Accommodation Policy \(HR6115\)](#)

[Policy on Human Rights, Equity and Fairness \(GV0200\)](#)

[Prevention of Violence in the Workplace \(SS9120\)](#)

[Protection of Privacy Policy \(GV0235\)](#)

[Records Management Policy \(IM7700\)](#)

[Resolution of Non-Academic Misconduct Allegations \(AC1300\)](#)

[Violence and Threatening Behaviour \(SS9105\)](#)

[Residence Community Living Standards](#)

[Residence Contract](#)

[Family Housing Agreement](#)

## Sexualized Violence – Support Procedures

**Procedural Authority:** President

**Procedural Officer:** University Secretary

**Parent Policy:** [Sexualized Violence Prevention and Response Policy \(GV0245\)](#)

**Effective Date:** May 2017

**Supersedes:** New

**Last Editorial Change:** New

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### Purpose

- A1.00 These procedures give effect to the university's commitment to provide support to all members of the university community who experience or are impacted by sexualized violence (Section 18 of the Sexualized Violence Prevention and Response Policy ("the Policy")).

### Definitions

- A2.00 The definitions in the Policy apply to these procedures.
- A3.00 In these procedures "the Director" means the Director of Equity and Human Rights (or their delegate).

### Confidentiality

- A4.00 Section 17 of the Policy (Confidentiality and Privacy) applies to these procedures.

### Immediate Support

- A5.00 Emergency support is available 24/7 by dialling 911 or contacting Campus Security at 250-721-7599. Immediate assistance may also be obtained through the Victoria Sexual Assault Centre (VSAC) by calling their 24-hour crisis line at 250-383-3232.
- A6.00 The Sexualized Violence Prevention and Response website has detailed information on immediate assistance available on and off campus, including current contact information.
- A7.00 The university may establish a Response Coordination team to assist with:
- (a) providing coordinated support; and/or
  - (b) protecting the safety of individuals and the university community.

### Intake Office

- A8.00 The Equity and Human Rights office is the central resource at the university for information on support options and referrals to on and off campus services.

### Information and Support – General

- A9.00 Information and support will be provided to survivors and those impacted by sexualized violence, as well as to respondents, as appropriate.

A10.00 Support will be coordinated by the Equity and Human Rights office (for all university community members) and/or units in Student Affairs (e.g. the Office of Student Life) (for students). University community members may access information and support through these offices if and when they feel ready to do so.

A11.00 The Equity and Human Rights office and/or departments and units in Student Affairs will provide information and support so that survivors and those impacted by sexualized violence can make informed decisions at all stages of a process, including during a disclosure or after a report has been made and during investigations and appeals. This information and support will also be made available to respondents, as appropriate. These may include but are not limited to:

- (a) accessible information, resources, and planning for personal safety and immediate safety needs (e.g., emergency medical attention, housing, etc.);
- (b) accessible information about medical services used in sexualized violence incidents to assess injuries and/or gather information, and about specialized community support services;
- (c) accessible information about reporting options available, and what to expect when making a report to the university or police;
- (d) assistance accessing information and completing administrative forms;
- (e) information on how to access union or legal representation;
- (f) working with Campus Security and others to assist with ongoing safety planning;
- (g) assistance with making connections to campus safety programs (e.g., Personal Safety Coordinators, Safewalk);
- (h) referral to other campus or community services and/or resources that can provide support for the emotional, spiritual, and physical impacts of sexualized violence; and/or
- (i) referrals to off-campus health and/or counselling support.

#### **Information and Support – Credit Students\***

A12.00 In addition, for credit students, possible non-academic supports may include but are not limited to:

- (a) accessing on-campus health and/or counselling support;
- (b) reviewing options related to on-campus housing;
- (c) adjusting a student's work schedule when the student is also an employee of the university;
- (d) assistance with connecting to resources to understand the implications and options regarding student visas;
- (e) assistance with making connections to other campus and community resources including faith-based and cultural specific supports; and/or
- (f) support in engaging with university units and external institutions when a student's post-secondary funding arrangements such as grants, scholarships, bursaries, band funding, student loans, teaching assistance or other employment income, and research/teaching grants are impacted.

A13.00 Information and support can include helping students to access academic support options. Possible academic support options may include but are not limited to:

- (a) adjusting a student's academic schedule, course, exam dates, academic supervisor, or instructor;

- (b) withdrawal from a course without penalty;
- (c) academic concession requests (e.g., deferring a final exam, assignment, or other course work; backdated course drops or withdrawals; alternative form of assessment; etc.);
- (d) applications for leaves of absence; and/or
- (e) referral to other academic resources and available supports.

13.01 Information and support can be provided to help students understand the implications of relevant timelines for academic concessions. Additional Information on academic concessions are contained in the Undergraduate and Graduate [Academic Calendars](#).

**Information and Support – Faculty, Librarians, and Staff\***

A14.00 The process for evaluating faculty, librarian, and staff requests for supports will differ depending on the type of support requested. Faculty, librarians, and staff are encouraged to work with the Equity and Human Rights office, their supervisor, and/or their union representative to learn about the available support options and how to access them. Supports that may be requested include but are not limited to:

- adjusting a work schedule for university employment;
- having work performance supervised and assessed by an alternative supervisor;
- recommending that the Director initiate an Environmental Assessment under the [Discrimination & Harassment Policy](#);
- applying for a leave of absence or an extension of leave from university employment;
- moving to a different work location; and/or
- transferring to a different position within the university.

A15.00 Faculty, librarians, and staff may also access support through the employee assistance program.

*\*If you are unsure of your relationship to or position in the university and have questions about the potential support options available to you, contact the Equity and Human Rights office.*

## Sexualized Violence – Disclosure and Reporting Procedures

**Procedural Authority:** President

**Procedural Officer:** University Secretary

**Parent Policy:** [Sexualized Violence Prevention and Response Policy \(GV0245\)](#)

**Effective Date:** May 2017

**Supersedes:** New

**Last Editorial Change:** June 2017

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### Purpose

- B1.00 The Disclosure and Reporting Procedures describe the processes that will be followed to uphold the university's commitments expressed in the Sexualized Violence Prevention and Response Policy ("the Policy") to provide survivors and those impacted by sexualized violence with access to immediate assistance (section 9), information about process options (section 10), and trauma-informed opportunities for disclosure (section 11) and reporting (section 12).

### Definitions

- B2.00 The definitions in the Policy apply to these procedures.
- B3.00 In these procedures "the Director" means the Director of Equity and Human Rights (or their delegate).

### Immediate Support

- B4.00 Emergency support is available 24/7 by dialling 911, and by contacting Campus Security at 250-721-7599. Immediate assistance may also be obtained through the Victoria Sexual Assault Centre (VSAC) by calling their 24-hour crisis line at 250-383-3232.
- B5.00 The Sexualized Violence Prevention and Response website has detailed information on immediate assistance available on and off campus, including current contact information.
- B6.00 The university may establish a Response Coordination team to assist with:
- (a) providing coordinated support; and/or
  - (b) protecting the safety of individuals and the university community.

### Process Options

- B7.00 The Equity and Human Rights office is available to explain the process options available to survivors and those impacted by sexualized violence (see section 10 of the Policy).

### Disclosures

- B8.00 Survivors and those impacted by sexualized violence may make a disclosure to any member of the university community (see section 11 of the Policy).



B9.00 All members of the university community who receive a disclosure may contact the Equity and Human Rights office for information and support as described in the Sexualized Violence Support Procedures.

B10.00 No university employee is obligated to report any disclosures of sexualized violence that they receive, unless one of the exceptions in section 11.2 of the Policy applies.

10.01 Notwithstanding section B10.00 above, a disclosure to Residence Life staff may be forwarded to that staff person's manager when required under Residence Life processes.

B11.00 Unless one of the exceptions in section 11.2 of the Policy applies, individuals who receive disclosures should obtain the consent of the person who disclosed to them before sharing any information about the person who disclosed.

### **Reports**

B12.00 Any member of the university community may report sexualized violence to the university. An individual may begin the reporting process by contacting the Equity and Human Rights office or Campus Security, either in person or by phone, email, letter, or other reporting options as the university may develop. A form will be made available to assist complainants in making a report.

B13.00 If a report is made to Campus Security, then Campus Security:

- (a) will take immediate action necessary to protect the safety and security of any person;
- (b) may apply interim measures according to university policies and any applicable collective agreement;
- (c) once any emergencies have been resolved, may engage a Response Coordination team, and;
- (d) will refer the report and the complainant to the Equity and Human Rights office for further action.

B14.00 If a report is made directly to the Equity and Human Rights office or received through Campus Security:

- (a) immediate action will be taken as necessary to protect the safety and security of any person;
- (b) the Director may contact the complainant to ask if the complainant is able to provide additional information, and will do so in a trauma-informed and survivor-centred manner;
- (c) the Director may engage a Response Coordination team, and;
- (d) the Director, in consultation with others as appropriate, will determine the next steps in the reporting process.

B15.00 Staff with training in the reporting process will be available to assist complainants in making their report.

B16.00 Reports will include the name and contact information of the person making the report. Reports should also include as much information about the incident(s) as the complainant can provide, such as:

- (a) a description of what happened;
- (b) information about the complainant and respondent;
- (c) the time(s), date(s), and location(s) of the incident(s); and
- (d) potential witnesses.

### **Retaliation**

B17.00 Allegations of retaliation (see section 5.2 of the Policy) can be made to the Equity and Human Rights office or Campus Security at any time when engaging with the policy or procedures, or to an investigator during an investigation. Allegations of retaliation may be investigated and sanctioned under this policy or another university policy.

### **Anonymous Statement**

B18.00 The university will develop mechanisms for the provision of anonymous statements.

B19.00 The university will accept anonymous statements for the purposes of:

- (a) determining whether there is a safety concern for the university community;
- (b) identifying whether it is appropriate for the university to investigate; and
- (c) compiling sexualized violence statistics wherever possible.

B20.00 The university's ability to investigate anonymous statements may be limited if the university cannot follow up with survivors or those impacted by sexualized violence.

B21.00 Anonymous statements are highly confidential. Access will be restricted to university staff who require it to perform their duties, subject to section 11.2 of the Policy.

B22.00 Anonymous statements will be reviewed regularly in order to assess whether the university needs to take any action. A person making an anonymous statement may ask for a particular action or result; however, the university cannot guarantee any outcomes based on anonymous statements.

### **Third Party Statements**

B23.00 The university will develop mechanisms for the provision of third party statements.

B24.00 A third party is a person other than a survivor, someone impacted by sexualized violence, or a respondent; a third party can be a witness, a friend, a colleague, a person who receives a disclosure, or any other person. A third party must have the consent of the survivor or person impacted by sexualized violence to share information about an incident that the third party was not involved in.

B25.00 The university will accept third party statements for the purposes of:

- (a) determining whether there is evidence of a safety concern for the university community;
- (b) identifying whether it is appropriate for the university to investigate; and
- (c) compiling sexualized violence statistics wherever possible.

B26.00 Third party statements do not need to contain identifying information, such as names or physical descriptions of those involved.

B27.00 The university encourages third parties to include their own contact information with their statement so that the university can follow up with them.

B28.00 The university's ability to investigate a third party statement may be limited if the university cannot follow up with survivors or those impacted by sexualized violence.

#### **University May Act as Complainant**

B29.00 The Director, in consultation with a Response Coordination Team, may initiate an investigation under the Policy with the university acting as the complainant where:

- (a) there is a significant risk to the health or safety of the university community; or
- (b) an investigation is required by law or university policy.

B30.00 The university may act as the complainant whether or not a report has been made.

B31.00 Survivors or those impacted by sexualized violence will not be compelled to participate in an investigation where the university is the complainant. If they choose not to participate their identity will not be disclosed to the respondent. However, there may be circumstances where the university is legally required to disclose information about survivors or those impacted by sexualized violence.

#### **Interim Measures**

B32.00 The university may apply interim measures in accordance with university policies and any applicable collective agreement.

#### **Personal Information**

B33.00 The university collects personal information under these procedures for the purposes of:

- (a) ensuring the safety of individuals and the university community;
- (b) ensuring the integrity and fairness of the process;
- (c) providing appropriate information to the complainant and the respondent; and,
- (d) conducting a proceeding or investigation that could lead to a sanction.

## Appendix to Disclosure and Reporting Procedures

### Statement of Rights of Complainant and Respondent

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#### **Purpose**

- 1.00 The purpose of this document is to list the rights that the complainant and respondent can expect to have under this procedure, in order to preserve the fairness and impartiality of the process.

#### **Complainant's Rights**

- 2.00 A complainant has the following rights:
- (a) to be treated with fairness, dignity, and respect;
  - (b) to be given access to available support and resources throughout the process;
  - (c) to timely assistance with safety planning;
  - (d) to timely information about referrals to available on- and off-campus support services and resources;
  - (e) to seek independent consultation at any point from the university Ombudsperson;
  - (f) to have the process explained to them in an accessible manner, including the possible outcomes;
  - (g) to have their personal information kept confidential (except when disclosure is required by law or university policy);
  - (h) to be informed that any information collected may be disclosed in criminal or civil proceedings;
  - (i) to present their side of the story, and to respond to other participants' information;
  - (j) to be accompanied by a support person;
  - (k) to legal representation (at the complainant's cost);
  - (l) if the complainant is a unionized employee and the investigation or outcome may have employment implications, to representation by their union;
  - (m) to decline to participate in aspects of the investigation;
  - (n) to appeal a decision by the university not to investigate;
  - (o) to regular updates on the status of the process;
  - (p) to opportunities to engage in community accountability processes where appropriate;
  - (q) to written notice of any resolution that affects the complainant; and
  - (r) to written notice of the outcome of any appeal.

### **Respondent's Rights**

3.00 A respondent has the following rights:

- (a) to be treated with fairness, dignity, and respect;
- (b) to be given access to available support and resources in alignment with the Policy;
- (c) to receive timely notice and information about the allegations against them;
- (d) to seek independent consultation at any point from the university Ombudsperson;
- (e) to be presumed to have not violated this policy until a fair investigation is completed;
- (f) to have the process explained to them in an accessible manner, including the possible outcomes and consequences;
- (g) to have their personal information kept confidential (except when disclosure is required by law or university policy);
- (h) to be informed that any information collected may be disclosed in criminal or civil proceedings;
- (i) to present their side of the story, and to respond to other participants' information;
- (j) to be accompanied by a support person;
- (k) to legal representation (at the respondent's cost);
- (l) if the respondent is a unionized employee and the investigation or outcome may have employment implications, to representation by their union;
- (m) to decline to participate (however, the process may still proceed in the absence of the respondent);
- (n) to opportunities to engage in community accountability processes where appropriate;
- (o) to notice about the outcome of an investigation and any sanctions; and
- (p) to appeal or grieve the decision (within the appropriate time frame) and to receive written notice of the outcome of any appeal.

## Sexualized Violence – Investigation, Adjudication, and Appeal Procedures for Students

**Procedural Authority:** President

**Procedural Officer:** University Secretary

**Parent Policy:** [Sexualized Violence Prevention and Response Policy \(GV0245\)](#)

**Effective Date:** May 2017

**Supersedes:** New

**Last Editorial Change:** New

### **Purpose**

- C1.00 These procedures describe the process that the university will follow to investigate and adjudicate allegations that a student has violated the Sexualized Violence Prevention and Response Policy (“the Policy”). These procedures also describes how the university will impose sanctions in such cases, and the appeal process.

### **Definitions**

- C2.00 The definitions in the Policy apply to these procedures. In addition, the following definitions apply:

“administrative authority” means the senior individual identified at the outset of a process to have administrative responsibility for the respondent, or decision making authority. Administrative authorities may include but are not limited to: Vice-Presidents, Deans, Chairs, Executive Directors, Directors or, other senior positions at the university.

“the Associate Vice-President Student Affairs” also includes their delegate.

“the Director” means the Director of Equity and Human Rights (or their delegate).

### **Scope**

- C3.00 These procedures apply to investigations, decisions, and appeals where the respondent is a student. If a student respondent has multiple roles at the university, then these procedures will apply with such changes as a Response Coordination team determines are appropriate under the circumstances.

### **Review of Report**

- C4.00 When the Equity and Human Rights office receives a report, the Director will determine whether or not to initiate an investigation.
- C5.00 In determining whether or not to initiate an investigation, the Director is guided by the understanding that the university will usually investigate if the university has jurisdiction to do so, and if there is sufficient information (from the report and other sources) in order to proceed.
- C6.00 The Director may decline to initiate an investigation in cases where the Director reasonably believes that:

- (a) there is insufficient information to proceed with an investigation;
- (b) it would be more appropriate to proceed under another university policy, process, or collective agreement;
- (c) the allegation has already been adequately addressed by another process;
- (d) the allegation should be put in abeyance pending the resolution of another process (including but not limited to a criminal investigation); or
- (e) the allegation is not consistent with the principles and intent of the Policy.

#### **Director's Decision to Investigate**

- C7.00 If the Director decides to initiate an investigation into a report, the Director will select one or more investigators. The Director will notify the complainant and respondent in writing.
- C8.00 Investigators must undergo a conflict of interest check before beginning an investigation. Investigators will conduct an investigation according to these procedures. If the university appoints multiple investigators, the investigators must assign responsibility for fact-finding to one investigator, or else agree to conduct fact-finding by consensus.
- C9.00 Complainants or respondents may raise reasonable allegations that investigators are biased or subject to a conflict of interest. Such allegations must be made in a timely manner and no later than five (5) business days following the date that the complainant or respondent knew, or ought to have known, of the basis for alleging bias or conflict of interest.

#### **Notification of Decision Not to Investigate**

- C10.00 If the Director decides not to proceed, they will notify the complainant in writing within five (5) business days of receiving the complainant's report, unless the Director considers it reasonable to extend that time limit. The Director will include reasons for making the decision not to investigate.
- C11.00 The complainant may seek a review of the Director's decision not to investigate only where:
- (a) relevant information emerges that was not available at the time of the decision; or
  - (b) the complainant reasonably believes that the decision to not investigate was biased.
- C12.00 The complainant should submit their request for review to the Equity and Human Rights office. A review of the Director's decision not to initiate an investigation is conducted by a committee of not fewer than three (3) administrative authorities appointed by the University Secretary. If the committee decides that one of the conditions in section C11.00 above may exist, the committee will review the Director's decision and issue a ruling.
- C13.00 The review must be requested within five (5) business days of receiving the Director's written reasons, unless the committee considers it reasonable to extend that time limit.

#### **Community Accountability Process**

- C14.00 After the Equity and Human Rights office has received a report of sexualized violence, the university may, on its own initiative or at the request of the complainant and/or the respondent, explore resolution through a community accountability agreement process. This process may occur before, during, or after an investigation.

- C15.00 At any time during an investigation, the complainant or the respondent may also request a community accountability agreement process.
- C16.00 The Director will work alongside the administrative authority throughout the community accountability agreement process.
- C17.00 To apply a community accountability agreement process, the complainant(s), respondent(s), and the university must all voluntarily agree to the process. Complainants may choose to participate, but will not be required to do so. Informed consent is collected from all participants.
- C18.00 The Director retains the right to conduct a full investigation even if the complainant and/or respondent requests a community accountability agreement process.
- C19.00 A community accountability agreement process may include but is not limited to: restorative justice, mediation or facilitated conversation between the parties, conflict coaching, community service, counselling, a recognition of impact statement or letter, or an expectation letter or agreement. Where appropriate, sanctions as outlined in section C58.00 below (but not including suspension) may be applied to any student participant in a community accountability agreement process.
- C20.00 A community accountability agreement process is kept confidential, and information disclosed by anyone during the process will not be made available to investigators.
- C21.00 If a community accountability agreement process results in a resolution that the respondent, the university, and the complainant (if participating) agree to, the resolution will be put in writing and signed. A copy of the terms of resolution shall be confidentially retained by the university and shall not be placed in official student or employment files.
- C22.00 Where a community accountability agreement process is conducted, but does not result in a resolution, the university may revert to a formal investigation process under these procedures.
- C23.00 A community accountability agreement process may also be pursued after a respondent has been disciplined under the Policy, in order to formalize conditions for the respondent remaining at or returning to the university.

### **Investigation**

- C24.00 A respondent's conduct may be investigated under other university policies and/or collective agreements. Investigations under the Policy will respect a respondent's rights under other policies or collective agreements. In cases where more than one policy or process may apply, the Director will consult with General Counsel, and others as appropriate, to determine jurisdiction, and will work with appropriate offices to co-investigate if appropriate.
- C25.00 The university recognizes that participating in an investigation process may be difficult, and encourages complainants, respondents, and others involved in the investigation to work with on- and off-campus supports to address plans for health and safety.

### Privacy and Confidentiality

- C26.00 Complainants should be aware that initiating an investigation has implications for their privacy and confidentiality; for example:



- (a) information sufficient to identify the complainant may be disclosed to the respondent, under conditions as described in section C28.00 below if appropriate;
- (b) information sufficient to allow the respondent to understand the details of the report, and any statements that the complainant or a witness makes to the investigator, will be disclosed to the respondent (subject to any redactions made in response to health or safety concerns); and
- (c) participants must keep confidential any information they receive during the investigation.

C27.00 The university collects personal information under these procedures for the purposes of:

- (a) ensuring the safety of individuals and the university community;
- (b) ensuring the integrity and fairness of the process;
- (c) providing appropriate information to the complainant and the respondent; and
- (d) conducting a proceeding or investigation that could lead to a sanction.

#### Notice to Respondent

C28.00 After the decision to investigate a report has been made, the respondent will receive written notice sufficient to allow the respondent to understand the details of the report. Under certain circumstances, the university may redact information in response to health or safety concerns expressed by complainants or witnesses. Redaction may have implications for the investigation process.

#### Process Explained to Participants

C29.00 The implications of initiating, and participating in, an investigation will be explained to complainants and witnesses so that they may make informed decisions.

C30.00 The complainant and the respondent will be given an opportunity to be informed about the investigation and resolution process and potential outcomes, and to have any procedural questions answered. The complainant and respondent will each be asked to sign a written acknowledgement that their rights have been explained to them and that they understand the process.

#### Choice to Participate

C31.00 The complainant may choose whether or not to participate in these processes, though a decision not to participate may impact the investigation, interim measures, and final resolution.

C32.00 The respondent may choose how they participate in the investigation, but is encouraged to provide all relevant information and materials that will support their position.

C33.00 Anyone, including the respondent, has the right to decline to participate in the investigation; however, the investigator may proceed to complete the investigation without that individual's participation.

#### Right to Support and Representation

C34.00 At any proceeding conducted under these procedures, any individual may bring a support person of their choice, who may be internal or external to the university.

- C35.00 A support person's role is to provide emotional support. They may accompany the complainant, respondent, or witness to interviews, meetings, or other proceedings.
- C36.00 A support person may not act instead of a complainant, respondent, or witness. Information must come directly from the complainant, respondent, or witness (unless the investigator decides otherwise).
- C37.00 A support person must agree in writing to maintain [confidentiality](#) in accordance with these procedures.
- C38.00 To ensure equitable access to the investigation process, individuals who require additional accommodation in order to fully participate in the investigation may bring a person to meet those specific needs.
- C39.00 If an individual intends to be represented by legal counsel, they must provide the investigator with a minimum of three university business days' notice in advance of any interview or meeting.

#### Information Gathering

- C40.00 The investigator will give all involved parties the opportunity to provide information relating to the report.
- C41.00 The investigator may interview witnesses at the investigator's discretion, including witnesses suggested by a complainant or respondent.

#### Opportunity to Test Information

- C42.00 There is no general right to cross-examination. However, respondents will be given an appropriate opportunity to test the relevant information (see section C46.00 below), keeping in mind the nature of the allegations, any conflicts in the information, and the importance of ensuring the safety and security of the complainant and witnesses.
- C43.00 An investigation under these procedures is not an adversarial process and the investigator must ensure that it is conducted in a manner that is not aggressive or confrontational. The investigator may disallow any question that is not necessary to ensure a fair process.

#### Interim Summary of Information

- C44.00 Once the investigator has concluded the initial information collection stage of the investigation, and has considered all statements and documents provided, the investigator will create an interim summary of information collected. This will include:
- (a) summaries of interview statements from parties and witnesses;
  - (b) other information gathered during the investigation; and
  - (c) the status of the investigation.

The interim summary of information will be provided to the complainant and the respondent.

C45.00 Upon receiving the interim summary, the complainant may submit written comments to the investigator regarding the interim summary of information. The complainant may also provide comments that address the impact of the harm of the sexualized violence incident.

C46.00 Upon receiving the interim summary, the respondent may provide submissions to the investigator, or seek an opportunity to test the information contained in the interim summary.

C47.00 If the respondent does not respond within five (5) business days of receiving the interim summary then, unless the investigator decides that it is reasonable to extend this timeline, the investigator may proceed to complete the investigation without the respondent's response.

#### **Decision and Investigator's Findings**

C48.00 After concluding their investigation, the investigator will determine whether the Sexualized Violence Prevention and Response Policy has been violated.

C49.00 The investigator will make their findings using the balance of probabilities standard of proof. This means that the information must show that it is more likely than not that the respondent violated the Policy in order for the investigator to find that a respondent is responsible.

C50.00 Where it is the opinion of the Director that a respondent may also have engaged in behaviour that violates another university policy, the investigator may be asked to reach findings under that policy.

C51.00 In making a finding, it is expected that the investigator will review and consider all relevant facts and information including but not limited to the complainant's report and any response to it, written submissions or information provided by a party, and notes from a meeting with a party.

C52.00 The investigator will prepare the investigation findings, which will include:

- (a) the information that the investigator considered;
- (b) any findings of credibility;
- (c) any findings of fact;
- (d) the investigator's findings as to any policy violations, responding to each element of the complainant's report; and
- (e) reasons for the investigator's findings.

C53.00 The investigator may conclude that:

- (a) the information does not show, on a balance of probabilities, that the respondent violated the Policy;
- (b) the information shows, on a balance of probabilities, that the respondent's conduct constituted sexualized violence, sexual misconduct, and/or retaliation, and the respondent thereby violated the Policy; or
- (c) based on the information assessed, a determination that the Policy was violated could not be reached.

The investigator may make findings under other university policies as identified by the Director at the outset of the investigation.

C54.00 If the investigation finds one or more policy violations, the administrative authority will determine sanctions.

**Sanctions**

C55.00 The administrative authority may impose sanctions up to, but not including, temporary or permanent suspension from the university. If the administrative authority determines that suspension may be an appropriate sanction, the administrative authority will refer the matter to the President to decide sanctions. If the President subsequently decides that a lesser sanction is appropriate, the President may refer the matter back to the administrative authority with direction.

C56.00 No aspect of these procedures can limit the President’s authority to deal summarily with any matter of student discipline, or to suspend a student, a member of the teaching or administrative staff, or any officer or employee of the university.

C57.00 The President or administrative authority who makes the sanctioning decision (the “decision maker”) will consider all relevant factors including but not limited to the nature of the harm; the complainant’s statement regarding the impact of the harm; and the interests of the university community. A respondent’s willingness to participate and take responsibility for their actions may have a mitigating effect on the sanction imposed.

C58.00 Sanctions may include but are not limited to one or more of the following:

Sanction Examples	
Type	Description
Written Warning or Reprimand	A letter from the university that provides details on the policy violation and a warning to the respondent that an additional violation will result in a more severe sanction(s).
No-Contact Directive	A directive prohibiting a person from contacting (whether face-to-face, electronically, through a third party, or otherwise), and from being in the same area as, a specified individual. This may involve a restriction from entering all or part of university premises at specified times.
Behavioural Contract	An agreement specifying the university’s behavioural expectations of the respondent, which may include conditions for continued participation in university activities or continued access to university property.
Written Apology or Participation in an Alternative Dispute Resolution Process	Respondent provides a written apology to a member of the university community, a third party, or other individual(s) affected by the respondent’s conduct.  Respondent participates in an alternative dispute resolution process such as conflict coaching, facilitated dialogue, restorative justice, or mediation.

Education/Training or Project	Respondent completes a specified education/training program (such as consent training), or completes an assignment (such as a research or reflection paper).
Referral	Respondent is referred to appropriate community resources.
Community Service	Respondent completes a designated number of hours of volunteer service within the university or in the broader community.
Suspension or Denial of Specified University Privileges	Suspension or denial of specified university privileges for a defined period of time.
Residence Relocation	A student respondent is required to vacate their current university residence and relocate to other on-campus housing.
Eviction from Residence	Loss of the privilege of living in any university housing or visiting the Residence complex at any time. Eviction may be permanent, or a student respondent may be permitted to re-apply to live in Residence after a specified period of time and/or after specific conditions have been met.
Time-Limited Suspension	Loss of academic or other university privileges, which may include a restriction on entering all or segments of university property, for a specified period of time.
Permanent Suspension	Permanent loss of academic or other university privileges, which may include a restriction on entering all or segments of university property.

C59.00 Suspensions (permanent or time-limited) will be documented on a student's transcript for the duration of the suspension.

C60.00 The decision maker will set out their decision, and the reasons for it, in writing. The written reasons will include a summary of the information relied upon in making the decision.

C61.00 If the decision maker imposes a sanction that does not include suspension from the university, the respondent will be given a decision notice and sanction, which will include the investigator's findings and the decision maker's sanctioning decision and reasons.

C62.00 If the President decides that an appropriate sanction may include suspension, the President will provide the respondent with the investigator's findings, and will give the respondent an opportunity to make submissions on the appropriate sanction, before the President makes the sanctioning decision. After deciding sanctions, the President will provide the respondent with the sanctioning decision and reasons.

C63.00 In all cases, after the sanctioning decision has been made, the complainant will receive the investigator's findings and will be informed about sanctions that affect the complainant's health or safety (see Confidentiality and Privacy sections 68.00-76.00 below).

C64.00 If the President decides to suspend a student, the President (or designate) will inform:

- (a) Campus Security;
- (b) the Associate Vice-President Student Affairs;
- (c) the Office of the Registrar;
- (d) the Dean of the student's faculty; and
- (e) the Senate Committee on Appeals.

C65.00 If a sanction includes temporary suspension or withdrawal from the university, the university may request additional information from the respondent prior to permitting a respondent to return. This information will help the university to foster a safe learning, living, and working environment, and to determine whether the university can uphold conditions from any applicable criminal or civil proceedings.

C66.00 If a sanction includes restricting or revoking a respondent's access to the university, the university may impose re-entry conditions as appropriate prior to restoring the respondent's access.

C67.00 Failure to comply with a sanction may result in the imposition of further sanctions, which may include restricting a student's access to programs, services, or locations on campus, and/or placing an administrative hold on a student's account.

#### **Confidentiality and Privacy**

C68.00 The university will act in compliance with the *Freedom of Information and Protection of Privacy Act* (FIPPA) and with university privacy, records management, and information security policies.

C69.00 Everyone participating in an investigation, including complainants, respondents, witnesses, support persons, and others, must keep any information they learn through the investigation confidential, both during and after the investigation.

C70.00 FIPPA restricts the kinds of information that the university is permitted to share with the complainant, the respondent, and the public.

C71.00 During the investigation, the complainant and the respondent will receive a summary of information collected. Witnesses will receive their own statements only.

C72.00 The university will disclose the investigator's findings to the complainant and the respondent. This is consistent with the purposes for collecting information leading to, or during, an investigation under these procedures, which includes ensuring the integrity and fairness of the process and ensuring the safety of individuals. The university reserves the right to withhold third party personal information if disclosing it would threaten anyone's safety or mental or physical health or interfere with public safety. Witnesses will not receive the investigator's findings.

C73.00 The complainant will be informed of any restrictions that the university imposes on the respondent if there is a health or safety issue. However, complainants do not have a general right to know whether the university has disciplined the respondent, or which sanctions are imposed. This is the respondent's personal information, according to FIPPA, and only the respondent may decide to release it. A decision regarding discipline, including any applicable sanctions, will be provided to the respondent in full.

- C74.00 The written reasons for decision in any appeal will be provided in full to the appellant. The original complainant will be informed of the outcome of the appeal and any changes to the sanction that affect the complainant's health and/or safety.
- C75.00 Throughout an investigation, adjudication, or appeal process, university employees will only be given the information that is necessary to perform their duties, and must treat such information as highly confidential.
- C76.00 Complainants, respondents, and witnesses are free to speak about their own experiences. However, individuals are not permitted to divulge information that they learned solely as a result of the investigation process, which they did not know beforehand.

### **Appeals**

- C77.00 A respondent who wishes to appeal their sanction, or a decision that led to their sanction, must submit their appeal to the Equity and Human Rights office, who will direct it to the appropriate appeal body.
- C78.00 Appeals of the President's decision to suspend a student from the university are heard by a Senate committee.
- C79.00 Appeals of an administrative authority's decision under these procedures are heard by the Associate Vice-President Student Affairs (for credit students) or Dean of Continuing Studies (for non-credit students) ("Appellate Authority").
- C80.00 Any sanctions will remain in force until the appeal is decided.
- C81.00 An appeal under these procedures is a pure appeal only, not a re-hearing. The appeal body will review the information available to the decision maker, but will not hear new information (e.g. new witness statements).

### Grounds for Appeal

- C82.00 A respondent may appeal a sanction or the university's handling of an investigation when (a) and/or (b) of the following applies:
- (a) there was a serious procedural error, which prejudiced one of the parties or may have substantially affected the final decision; or
  - (b) the sanction was unreasonable or unsupportable and will have the effect of deregistration, removal or restriction from campus, or suspension.
- C83.00 The Senate Committee or the Appellate Authority may summarily dismiss an appeal that, in their judgment, does not raise a valid ground for an appeal.

### Participation in a Student Appeal

- C84.00 Participation in an appeal process is voluntary; however, the choice not to participate may impact the process and the outcome of the appeal.
- C85.00 No individual who has a direct interest or prior involvement in the report, investigation, decision, or conduct under appeal will hear an appeal of a sexualized violence decision.

Individuals must disclose any actual or perceived conflicts of interest as soon as possible before the start of the appeal process.

C86.00 The university will provide training on myths and stereotypes about sexualized violence (such as myths about relationship status, dress, prior sexual history, lack of resistance, delayed disclosure, demeanor while giving testimony, or participation in counselling or therapy), and on trauma-informed responses, to all individuals who will hear appeals under these procedures. No individual who has not received this training will hear an appeal.

Appeal Procedures Where a Suspension was not Imposed

C87.00 A student who wishes to appeal a decision where suspension was not imposed must first file a written statement of appeal with the Equity and Human Rights office that includes:

- (a) a statement of the grounds for appeal;
- (b) a statement of facts relevant to the grounds for appeal;
- (c) a statement of the remedy or relief sought;
- (d) copies of relevant documents that support the student's appeal; and
- (e) statements from any witnesses relevant to the appeal.

C88.00 The Appellate Authority will review the written statement of appeal and all other material submitted, and will determine if there are sufficient grounds to hear the appeal.

C89.00 The Appellate Authority will normally decide an appeal on the basis of written materials only. However, the Appellate Authority may exercise their discretion to convene a meeting with the student and the administrative authority, if either of them requests it.

C90.00 If the Appellate Authority decides to convene a meeting, they shall provide the student with at least five (5) university business days notice of the time of the meeting. The student may request that the meeting be rescheduled within reasonable timeframes and under reasonable circumstances.

C91.00 The student may be accompanied by a support person. Where the student intends to be represented by legal counsel, the student must provide the Appellate Authority with a minimum of three (3) university business days notice in advance of the meeting. The Appellate Authority may request that university legal counsel be present to observe or provide advice as required.

C92.00 The Appellate Authority may request that other individuals attend the meeting as required.

C93.00 The Appellate Authority will review relevant information and decide an appeal normally within fifteen (15) university business days after receiving all written submissions or the date of a meeting convened under section C89.00, whichever is later.

C94.00 The Appellate Authority may, after reviewing the relevant information:

- (a) uphold the original decision and/or sanction(s);
- (b) reverse the decision and/or sanction(s);
- (c) modify the sanction(s); or



- (d) determine that a procedural error occurred and refer the matter back to the intake office for re-investigation or referral to a separate investigative process (e.g. under a collective agreement).

C95.00 The Appellate Authority's decision is final. The Equity and Human Rights office will communicate this decision to the appellant in writing within five (5) university business days of the decision being made. The Equity and Human Rights office will also notify the complainant of the outcome of the appeal, and any changes in sanctions that affect the complainant's health and/or safety.

#### Senate Appeal Procedures

C96.00 Except where these procedures state otherwise, appeal hearings will follow the relevant Senate committee hearing procedures.

C97.00 The appellant, the university, and any other parties involved in an appeal have the right to retain counsel or other advisors to represent them, at their own expense. The Senate committee may also retain counsel. Notice of counsel's or advisor's names will be provided to all other parties and to the Senate committee at least three (3) business days before the hearing date, unless the Senate committee allows otherwise.

C98.00 The Senate committee is not bound by strict legal procedures nor strict rules of evidence. It will proceed fairly in the disposition of the appeal, ensuring that all parties are:

- (a) aware of the information to be considered;
- (b) provided copies of all relevant documents to be considered by the Senate committee;
- and
- (c) given an opportunity to be heard during the process.

The Senate committee will consider all relevant information and will apply the balance of probabilities standard of proof.

#### Senate Appeal Decision

C99.00 After an appeal hearing concludes, the Senate committee will render a decision. Their decision will be in writing, and will include written reasons setting out the basis for their decision. The Equity and Human Rights office will provide the Senate committee's reasons in full to the appellant. The Equity and Human Rights office will also notify the complainant of the outcome of the appeal, and any changes in sanctions that affect the complainant's health and/or safety. The Senate committee's decision is final.

C100.00 The Senate committee does not have the authority to make any order for payment of costs.