

Sexual Violence Policy

Classification Health, Safety & Environment	Table of Contents Purpose 1 Scope 2 Definitions 3 Policy Statement 4 Responsibilities 5 Procedures 6 Related Policies 7 Related Information 8 History 9
Approval Authority Board of Governors	
Implementation Authority President	
Effective Date June 1, 2017	
Latest Revision June 1, 2017	

- Purpose**
- 1 The purpose of this policy is:
 - a) to set out the University's policy related to Sexual Violence; and
 - b) through the related procedures, establish the processes by which the University will respond to allegations of Sexual Violence.

- Scope**
- 2 This policy applies to all members of the University Community.

This policy operates alongside other applicable University policies and procedures. Where there is a conflict or inconsistency between the provisions of this policy and another University policy or procedure, this policy governs to the extent necessary to resolve the conflict or inconsistency. However, this policy does not replace or supersede the provisions of any Collective Agreement. Consequently, if there is a conflict between the provisions of this policy and a Collective Agreement, the Collective Agreement governs to the extent necessary to resolve the conflict.

This policy applies to actions, interactions and behaviours of members of the University Community that take place:

- a) on University premises; or
- b) off University premises where a member of the University Community is involved in the business of the University or activities related to the University, or is representing the University; or
- c) off University premises, including through social media or other online means, where such actions, interactions or behaviour have a negative impact on a member of the University Community such that it materially interferes with their University learning, working or living environment.

Definitions

3 In this policy

- a) “Academic Staff Member” means an individual who is engaged to work for the University and is identified as an academic staff member under Article 1 of the applicable Collective Agreement.
- b) “Appointee” means an individual who is engaged to work for the University, or whose work is affiliated with the University, through a letter of appointment, including adjunct faculty, clinical appointments, and visiting researchers and scholars.
- c) “Collective Agreement” means any collective agreement between the Governors of the University of Calgary and (i) the Faculty Association of the University of Calgary, (ii) the Alberta Union of Public Employees, (iii) the Graduate Students’ Association, or (iv) any other association or union representing Employees, in each case, in effect at the relevant time.
- d) “Complainant” means the person who has made a Formal Report under this policy.
- e) “Consent” means the ongoing voluntary agreement of a person to engage in the sexual activity in question.
- f) “Contractor” means an individual or a corporation or other entity, who agrees to furnish materials to, or perform services for, the University for consideration.
- g) “Disclosure” means when an individual shares information about a personal experience of Sexual Violence with an Academic Staff Member, Appointee, Employee, Postdoctoral Scholar or Student.
- h) “Employee” means an individual, other than an Academic Staff Member or Appointee, who is engaged to work for the University under an employment contract.
- i) “Formal Report” means a complaint to the University by an individual who is seeking recourse for a violation of this policy.
- j) “Postdoctoral Scholar” means an individual who has completed a doctoral degree and is carrying out research at the University under the direction or mentorship of a supervising Academic Staff Member.
- k) “Reprisal” means Retaliatory Measures that are taken against an individual because they have sought advice about making a Disclosure or Formal Report, made a Disclosure or Formal Report in good faith, co-operated in an investigation of a Formal Report, or declined to participate in behavior that would breach this policy.
- l) “Respondent” means the person alleged in a Formal Report to have violated this policy.

- m) “Retaliatory Measures” mean any act that adversely affects:
- i. the employment, working conditions, or education of the individual who is subject to the act, or
 - ii. the living conditions of the individual who is subject to the act and lives in residence.

Examples of Retaliatory Measures include a dismissal, suspension, demotion or transfer, expulsion, change in grade or other penalty; or a threat to do any of those things.

- n) “Senior Officer” means any member of the Senior Leadership Team as well as any director and any department head.
- o) “Senior Leadership Team” refers to the individuals who, at the relevant time, are designated as members of the University’s Senior Leadership Team.
- p) “Sexual Assault” is a criminal offence under the Criminal Code of Canada. Sexual assault is any type of unwanted sexual act done by one person to another that violates the sexual integrity of the individual and involves a range of behaviours from any unwanted touching to penetration.
- q) “Sexual Harassment” means unwanted remarks, behaviours or communications of a sexual nature and/or unwanted remarks, behaviours or communications based on gender or sexuality, where the person responsible for the remarks, behaviours or communications knows or ought reasonably to know that these are unwelcome.
- r) “Sexual Violence” means any violence, physical or psychological, that is committed, threatened or attempted against a person without the person’s consent through a sexual means or by targeting gender or sexuality. This includes, but is not limited to, Sexual Assault, Sexual Harassment, indecent exposure, voyeurism, degrading sexual imagery, and distribution of sexual images or video of a University Community member without their consent. It can include a single incident or a pattern of behaviour whether in person, online or via other means.
- s) “Sexual Violence Support Advocate (SVSA)” means an appropriately trained individual who is designated by the University and who is the recommended first point of contact or referral for any University Community member who has experienced Sexual Violence.
- t) “Student” means an individual registered in a University course or program of study at the time of the alleged incident of Sexual Violence.
- u) “Student at Risk Team” means a multi-disciplinary resource team comprised of University staff members representing Student Wellness, Campus Security (as required), Student Services, Residence Services and ad hoc committee members that coordinates intervention and support in response to At-Risk Behaviour (as defined in the Student-at-Risk Policy).

- v) “Student Legal Assistance (SLA)” means the on-campus law clinic staffed by Students.
- w) “Student Ombuds” means the Employee who has the title Student Ombuds and provides a safe place for Students to confidentially discuss Student related issues, academic and non-academic concerns, and other matters.
- x) “Threat Assessment Committee (TAC)” means a multi-disciplinary resource team comprised of University staff members representing Campus Security, Human Resources, Student Services, Student Wellness and Staff Wellness and ad hoc committee members that responds to reports of actual or potential workplace violence as provided for in the Workplace Violence Policy
- y) “University” means University of Calgary.
- z) “University Community” means individuals who are directly connected to any University activities and initiatives and includes all Academic Staff Members, Appointees, Employees, Postdoctoral Scholars, Students, Contractors and Volunteers.
- aa) “Volunteer” means an individual who, on a voluntary basis, provides a service or materials to the University.

**Policy
Statement**

4 General

- 4.1** The University recognizes that all members of the University Community should be able to learn, work, teach and live in an environment where they are free from harassment, discrimination and violence. The University:
- a) will promote a culture of respect so that those who make a Disclosure or Formal Report of Sexual Violence are treated respectfully;
 - b) has investigation processes that protect the rights of all individuals and hold accountable individuals who have been found to have committed an act of Sexual Violence;
 - c) will provide training on how to respond to a Disclosure of Sexual Violence for Academic Staff Members, Appointees, Employees, Postdoctoral Scholars and Students; and
 - d) will implement awareness, educational and risk management programs to address the prevention of Sexual Violence.
- 4.2** The University respects the rights of individuals who have been subjected to Sexual Violence to choose the services and supports they feel are most appropriate and to decide whether or not to report to the police and/or to file a Formal Report with the University including respecting their rights not to report.
- 4.3** The University’s policies, administrative processes and discipline systems are independent of the civil and criminal justice legal systems. University Community members alleged to have perpetrated Sexual Violence may be subject to the University’s administrative processes and discipline systems in addition to the civil or criminal legal system.

Confidentiality

- 4.4** Appropriate procedures for responding to a Formal Report alleging Sexual Violence will be followed to ensure due process and, except as set out in 4.5, 4.6, 5.1 and applicable legislation, to avoid breaching the privacy of anyone who reports or is involved in alleged Sexual Violence.
- 4.5** Everyone involved in a Disclosure or Formal Report will be informed about the processes in place to safeguard confidentiality and the limits of confidentiality. Confidentiality cannot be assured if:
- a) an individual is judged to be at imminent risk of self-harm;
 - b) an individual is judged to be at imminent risk of harming another;
 - c) there is reason to believe that other University Community members or the broader community may be at risk of harm;
 - d) reporting or action is required by law; and/or
 - e) evidence of the alleged Sexual Violence is available in the public realm.
- 4.6** Subject to 4.5, the names of the Complainant and Respondent and the circumstances of the incident will not be disclosed by the University to any person except where disclosure is necessary for the purpose of investigating and resolving the Formal Report and taking any related disciplinary measures.
- 4.7** The University will maintain annual statistics on Disclosures and Formal Reports of incidents of Sexual Violence for the purposes of community education, review of response mechanisms and any legislated reporting that may be required. This data will not include any personal information that would identify a University Community member.

Consent

- 4.8** The University is committed to providing education on Consent and its relationship to Sexual Violence.
- 4.9** Consent is the ongoing voluntary agreement of a person to engage in the sexual activity in question. More specifically, Consent:
- a) is not silence or the absence of “no”;
 - b) cannot be assumed or implied from previous Consent to similar activities or from anything else;
 - c) cannot be given by an individual incapacitated by alcohol, drugs or some other reason, or who is unconscious, under the age of consent or otherwise incapable of providing consent;
 - d) can be revoked at any time, whatever other sexual activities have taken place;
 - e) can never be obtained through an abuse of power, threats, intimidations, coercion or other pressure tactics;
 - f) cannot be obtained through manipulation or misrepresentation; and
 - g) cannot be obtained if the individual abuses a position of trust or authority.
- 4.10** It is the responsibility of the initiator of a sexual activity to obtain Consent at all stages of the sexual engagement.

4.11 The Criminal Code of Canada sets the age of consent to sexual activity at 16 years with the following exceptions:

- a) the age of consent for sexual activity that may be exploitive (prostitution or pornography or sexual activity with a person in a relationship of trust, authority or dependency such as an instructor, coach, tutor, or mentor) is 18 years;
- b) youth of 14 or 15 can consent to sexual activity with a person who is less than five years older;
- c) youth of 12 or 13 can consent to sexual activity with a peer who is less than two years older; and
- d) children younger than 12 are judged incapable of consenting to any sexual activity with any person, regardless of the person's age.

4.12 All sexual acts without Consent constitute Sexual Assault, regardless of age.

Sexual Assault

4.13 Sexual Assault:

- a) includes a range of non-consensual sexual activities including oral contact (mouth to mouth, mouth to body part), groping, touching, oral sex, vaginal or anal penetration, and/or penetration with any object or body part.
- b) can occur if the alleged perpetrator is the spouse, intimate or dating partner, a friend or acquaintance, a known person in a position of trust or authority or a complete stranger;
- c) can occur regardless of sexual orientation, gender, and gender identity or relationship status; and/or
- d) can occur when an individual engages in sexual activity with another person they know, or reasonably ought to have known, is incapacitated (e.g. by drug or alcohol use, unconsciousness, blackout, or as a result of a disability).

Disclosing and Responding to Sexual Violence

4.14 The University has a dedicated website for Sexual Violence resources that can assist individuals who are subjected to, have witnessed or have knowledge of an incident of Sexual Violence. This website (ucalgary.ca/sexualviolencesupport) provides information about:

- a) supports that are available; and
- b) Formal Reporting options and what to expect for all parties, including Complainants and Respondents.

4.15 Supports are available to any University Community member making a Disclosure, irrespective of whether that individual also chooses to pursue a criminal complaint or Formal Report. Available supports include:

- a) counselling through the SU Wellness Centre or mental health consultation through Staff Wellness;
- b) referral to the Employee and Family Assistance Program;
- c) health services including sexually transmitted infection and pregnancy testing;
- d) safety planning;

- e) peer supports;
- f) residence staff to facilitate safe living arrangements for Students living in residence; and
- g) workplace or academic accommodations.

4.16 The Sexual Violence Support Advocate (SVSA) is available for anyone who is seeking information about options for making a Disclosure, Formal Report or is seeking support as a result of being subject to Sexual Violence. The SVSA can assist individuals in accessing supports and in understanding each of the reporting options available.

4.17 Any individual impacted by Sexual Violence who is represented by a union or an association, has the right to seek the assistance of that union or association.

4.18 Anyone who receives a Disclosure should provide information on resources available to the individual including information about the SVSA.

4.19 Senior Officers, Managers, Employees and Students in a position of trust or authority who become aware of an incident of Sexual Violence involving a member of the University Community other than as a result of receiving a Disclosure shall promptly alert the SVSA and, where possible in urgent situations, shall contact Campus Security or call 911. Notifying the SVSA of the incident does not constitute a Formal Report. Subject to 4.5, 4.6, 5.1 and applicable law, the SVSA will keep information confidential.

4.20 Where the University becomes aware of incidents of Sexual Violence by a University Community member or against a University Community member, the University will take all reasonable steps to ensure the safety of individuals involved and the safety of the University Community, in consultation with the Complainant (if there is a Complainant). This may include interim measures, including but not limited to:

- a) separation of the academic, living or workplace situations of any individuals allegedly involved in the incident of Sexual Violence;
- b) academic accommodations; or
- c) no-contact orders issued by the University.

4.21 A Student who is a Respondent in a Sexual Violence allegation may at any time seek the assistance of the SU Wellness Centre for support, or may seek advice from the Student Ombuds, or may contact Student Legal Assistance (SLA).

Disclosure Records

4.22 Records pertaining to a Disclosure are the property of the University and will be retained in accordance with University document retention rules.

Formal Reporting of Sexual Violence

4.23 A Disclosure is not a Formal Report and will not trigger an investigation unless the University becomes aware of a risk to other members of the University Community.

- 4.24** Anyone who has witnessed or has been subject to Sexual Violence has options for filing a Formal Report or criminal complaint in response to the Sexual Violence. No individual who has been subject to Sexual Violence is required to file a Formal Report or a criminal complaint.
- 4.25** Procedural options for investigating and adjudicating a Formal Report depend on the role of the Respondent (e.g. Student, Employee, Academic Staff, Postdoctoral Fellow, etc.) within the University. All Formal Reporting options follow principles of natural justice and must appropriately protect the rights of both the Complainant and the Respondent. Anyone who experiences or witnesses Sexual Violence may pursue any of the following reporting options:
- a) Criminal Reporting Option: individuals may report their allegations independently through the criminal justice system by contacting the Calgary Police Service or, if known, the law enforcement agency in the jurisdiction where the alleged Sexual Violence occurred. If an individual chooses this route and would like the support of the University in filing a report, the SVSA and Campus Security can facilitate making a report to the police.
 - b) Non-Criminal, On-Campus Formal Report options include:
 - i. reports involving allegations against any member of the University Community can be made through Campus Security;
 - ii. reports involving allegations against Students and student groups can be made to the Student Conduct Office through the University's Student Non-Academic Misconduct Procedure;
 - iii. reports involving allegations against Employees can be made through Human Resources under the Workplace Investigation Procedure; and
 - iv. reports involving allegations against Academic Staff Members, Appointees, Postdoctoral Scholars, Contractors or Volunteers can be made to the Protected Disclosure Advisor through the University's Procedure for Protected Disclosures.
- 4.26** There is no time limit for making a Formal Report; however, the University encourages individuals to make a Formal Report as soon as they are able to do so, recognizing that the investigation may be more challenging the longer the period of time between an incident and a Formal Report.
- 4.27** Formal Reports may be made anonymously but the Complainant should be aware that this may limit the ability of the University to respond and investigate.
- 4.28** If a Respondent is subject to both a criminal complaint and a Formal Report, the University will proceed with the Formal Report. Should the Respondent choose not to participate in the Formal Report investigation, the University may put in place interim measures to ensure the safety of the University Community.
- 4.29** A Complainant has the right to withdraw a Formal Report at any stage of the process. However, the University may have a duty to act on the issue identified in the Formal Report in order to comply with its obligations under this policy and/or its legal obligations.

4.30 This policy does not preclude individuals from filing a complaint in other venues such as under the grievance process of an applicable Collective Agreement or filing a complaint of harassment or discrimination with the Alberta Human Rights Commission which has its own procedures and timelines. Such other venues or processes may impose time limits for filing a complaint.

Investigation of Formal Reports Alleging Sexual Assault

4.31 Irrespective of the on-campus Formal Report option chosen, where a Formal Report involves an allegation of Sexual Assault, the University will appoint an investigator, either internal or external to the University, who has completed trauma-informed investigation training to complete the investigation. An investigation of a Formal Report alleging Sexual Assault will usually include:

- a) interview(s) with the Complainant;
- b) interview(s) with the Respondent;
- c) interview(s) with witnesses and potential witnesses;
- d) collection and review of evidence; and
- e) findings of fact made on the balance of probabilities.

4.32 Upon completion of the investigation, the investigator will prepare a report based on the interview statements and evidence collected. The report will be sent to the individual(s) responsible for disciplinary and non-disciplinary processes under the relevant University policies, regulations and Collective Agreements.

4.33 Where a Formal Report involves an allegation of Sexual Assault, the Respondent is a Student and the Procedure for Student Non-Academic Misconduct is applied, the Hearing Board will not include a Student representative and will consist of only individuals who have undertaken trauma-informed adjudication training and who have not previously been involved in the incident in question.

Unsubstantiated Formal Reports

4.34 If a Complainant, in good faith, makes a Formal Report that is not supported by evidence gathered during an investigation, that Formal Report will be dismissed and no record of it will be placed in the Complainant's or Respondent's student or human resource file, however an incident report may remain on-file with the University.

Reprisals and Sanctions

4.35 Individuals will not take any action in Reprisal against a Complainant or any individual who has co-operated in an investigation of a Formal Report. An individual who is found to have taken action in Reprisal may be subject to disciplinary action up to and including termination of employment, expulsion from the University or termination of any other relationship they have with the University. Disciplinary action will be taken in accordance with the provisions of any applicable Collective Agreement.

4.36 An individual who believes they may be the subject of Reprisal should notify the Protected Disclosure Advisor.

4.37 An individual who through the investigation of a Formal Report is found to have breached this policy may be subject to disciplinary action up to and including termination of employment, expulsion from the University or termination of any other relationship they have with the University. Disciplinary action will be taken in accordance with the provisions of any applicable Collective Agreement.

4.38 An individual who is found to have made a frivolous or vexatious Complaint may be subject to disciplinary action up to and including termination of employment, expulsion from the University or termination of any other relationship they have with the University. Disciplinary action will be taken in accordance with the provisions of any applicable Collective Agreement. A Complaint made in good faith that is not substantiated is not a frivolous or vexatious complaint.

Responsibilities	5	5.1 The SVSA will: <ul style="list-style-type: none">a) serve as a recommended point of contact or referral for any member of the University Community who has been subject to or witnessed Sexual Violence;b) provide initial and ongoing support including confidential consultation and assistance in accessing resources both on and off campus;c) maintain confidential records of all known incidents of Sexual Violence;d) refer to the Student at Risk Team as necessary in Disclosures of Sexual Assault involving students; the Student at Risk Team will respond to a referral in accordance with their procedures;e) refer to the Threat Assessment Committee as necessary in Disclosures of Sexual Assault involving Employees, Academic Staff or Postdoctoral Fellows and as needed in other Disclosures; the Threat Assessment Committee will respond to a referral in accordance with their procedures; andf) assist in the creation of educational resources and training initiatives.
Procedures	6	Student Non-Academic Misconduct Procedure Workplace Investigation Procedures Procedure for Protected Disclosures
Related Policies	7	Harassment Policy Student Non-Academic Misconduct Policy Student at Risk Policy Code of Conduct Workplace Violence Policy
Related Information	8	ucalgary.ca/sexualviolencesupport/
History	9	<i>Approved:</i> May 26, 2017 <i>Effective:</i> June 1, 2017 <i>Editorial Change:</i> March 8, 2018