

## STUDENT SEXUAL MISCONDUCT PROCEDURES

### Definitions

Terms used in these Procedures are as defined in the **Policy**.

### Scope

These **Procedures** set out the process for bringing **Sexual Misconduct** to the attention of the **University** and the process the **University** will follow where such matters are brought to its **attention**.

### Disclosures, Complaints and Reports of Sexual Misconduct

If a person witnesses or experiences Sexual Misconduct or there is reason to believe Sexual Misconduct has occurred or may occur, the person may pursue one or more of the following options:

#### a. Disclosure

i. A Disclosure is an informal notification to the University that Sexual Misconduct has occurred or that a person has reason to believe may occur. **A Disclosure will not be treated as a Complaint and will not be formally investigated by the University unless the University believes there is an imminent risk of harm to a person or there is a legal requirement for the University to do so.**

ii. A person making a Disclosure may make the Disclosure to any employee of the University or support person on campus (e.g., Counsellor, Nurse Practitioner, Doctor, Manager, Residence Advisor, Security, or Student Union).

iii. A person who makes a Disclosure that they have experienced Sexual Misconduct may obtain supports (e.g., medical assistance, counselling) and where appropriate, reasonable academic accommodations, without making a Complaint or Report.

#### b. Complaint

i. A Complaint is a formal notification to the University of Sexual Misconduct, made by the person who experiences the Sexual Misconduct.

ii. A Complaint must contain sufficient information and detail of the Sexual Misconduct for the University to initiate an investigation.

iii. A person who is considering filing a Complaint may consult with a Counsellor or Wellness Coach who can answer questions and assist the individual with the Complaint process.

**Comment [EDITOR1]:** A cross-reference to definitions may be helpful, but every effort should be made to write in a way that the reader doesn't have to rely on a list of definitions to understand the text. Wherever possible, terms should be defined within the text.

**DO:** Use a glossary or list of definitions when needed, but make it as accessible as possible (i.e., keep it within the same document).

**DO:** Use simple terms to avoid readers needing to cross-reference definitions.

**DON'T:** Start a document with the definitions. Readers want information first: definitions belong at the end.

**Comment [EDITOR2]:** Good structure. Placing the scope (purpose) at the start immediately tells the reader what to expect.

**Comment [EDITOR3]:** "Down" style (using lower case where possible) is always preferable.

**DO:** Use standard punctuation.

**DO NOT:** Capitalize words unless they are proper nouns or titles.

**Comment [EDITOR4]:**

**DO:** Write directly to the reader (i.e., use second person).

**DO:** Shorten sentences.

**DON'T** Use passive voice.

**Comment [EDITOR5]:**  
**DO:** Consider how headings give the reader information (i.e., use verb forms to show action in headings).

**Comment [EDITOR6]:**

**DO:** Always review sections, lists, and paragraphs for internal structure.

**DON'T:** Introduce ideas/steps before they have been explained or defined.

**Comment [EDITOR7]:** Using lists is very helpful.

**DO:** Check that the order of list items is logical for the reader.

**DO:** Try to limit number of list items to five or six (ten maximum, depending on content and length of each list item). If more steps are needed, try to break into more than one list.

**DON'T:** Use more than one sub-list after a main list.

iv. Upon receipt of a Complaint, the University will initiate a formal investigation as provided for in these Procedures.

v. The person who files the Complaint may withdraw the Complaint at any time. However, the withdrawal of a Complaint does not guarantee that the Complaint will not be investigated or that there will be no consequences to any individuals flowing from the Complaint.

c. Report

i. A Report is notification to the RCMP of Sexual Misconduct that has occurred that a person reasonably believes rises to the level of criminal conduct.

ii. Individuals who experience or witness Sexual Misconduct that rises to the level of criminal conduct are strongly encouraged to file a Report.

iii. If a person advises the University that they intend to make a Report, the University will make available to them a support person on campus who can support them in making the Report.

iv. The University, to the extent it is reasonable to do so and as permitted by law, will cooperate with any criminal investigation arising from a Report.

**Comment [EDITOR8]:**

**DO:** Avoid overusing negatives.

**DON'T:** Use double (or triple) negatives.

**Control over Process**

The University recognizes that individuals who have experienced Sexual Misconduct may wish to maintain control over whether and how their experience will be dealt with by the University. Which of the above option(s) the individual elects to pursue will impact on the level of that control.

a. Where the University receives a Disclosure, the individual who has experienced Sexual Misconduct will retain substantial control over how their experience will be dealt with by the University. However, where an individual makes a Disclosure and does not file a Complaint, they will not have access to remedies that could flow from a substantiated Complaint and no sanctions or discipline will flow to anyone from the Disclosure.

b. Where the University receives a Complaint, the University will carry out a full and impartial investigation. In such circumstances, the individual who has experienced the Sexual Misconduct will have less control over how their experience will be dealt with by the University. However, where a Complaint is substantiated, the individual who has experienced the Sexual Misconduct will have access to remedies they may not have access to through a Disclosure. Within the framework of the process for addressing Complaints and while ensuring procedural fairness, the University will, to the extent reasonably possible, take into account the wishes of the individual alleged to have experienced Sexual Misconduct.

**Comment [EDITOR9]:** Always consider structure from the point of view of the reader.

**QUESTIONS TO ASK:**

- Does this section belong somewhere else?
- Does the heading clearly introduce the section?
- Would a reader expect to look for a section on control over process?

The University may be required to initiate an investigation and/or report alleged Sexual Misconduct to the RCMP, even without the consent of the individual who has experienced the Sexual Misconduct, if:

- a. the allegation involves Sexual Misconduct involving a minor;
- b. applicable legislation requires the University to carry out an investigation; or
- c. the University has a reasonable belief that there exists a risk to the health or safety of a member of the University community.

Should the University initiate an investigation or inform the RCMP about alleged Sexual Misconduct without the consent of the individual who has experienced the Sexual Misconduct, the University will notify that individual that it has done so.

### Responding to Disclosures

Where an individual makes a Disclosure to an employee of the University or support person on campus that they have experienced Sexual Misconduct, **the employee or support person should:**

- a. listen without judgement;
- b. communicate that Sexual Misconduct is not the fault of the person who has experienced it;
- c. help the individual to identify and/or access available on or off campus services such as emergency medical care or counselling;
- d. respect the individual's right to choose the services they feel are most appropriate for them and the individual's right to decide whether to make a Complaint or a Report;
- e. recognize that disclosing Sexual Misconduct can be traumatic, and that an individual's ability to recall the events may be limited or otherwise impacted;
- f. respect the individual's choice about how much they disclose about their experience; and
- g. make every effort to respect confidentiality and anonymity.

Employees of the University to whom a Disclosure is made or who otherwise become aware of Sexual Misconduct are required to notify the Student Services Director (the "Director") and, **where appropriate**, University Security. The identities of the individuals involved in the Sexual Misconduct should only be disclosed where reasonably required for University purposes and/or for the purposes of protecting the health and safety of any individual.

**Comment [EDITOR10]:** Here the document makes a 180-degree turn to talking to people receiving disclosures/complaints, rather than talking to the person who is making the disclosure/complaint, which veers from the stated scope of explaining how the university will respond. Editing is required to shift back to the reader while retaining this information.

**DO:** Always write to the primary audience.

**DO:** Consider producing different publications for different audiences (e.g., in this case, an information document for university personnel on "how to help" may be in order).

**DON'T:** Lose your focus.

**Comment [EDITOR11]:** The practice of putting a term in short form in parentheses after the first use of the full term is generally not required unless there is any chance of misreading.

**DO:** Eliminate unnecessary words.

**Comment [EDITOR12]:** In what circumstances would notifying **not** be appropriate?

**DO:** Review all language for clarity.

The Director and/or University Security who receives the information will assess it and determine whether, based on that information, there is a risk to the health or safety of anyone. If so, the Director and/or University Security will take steps to protect the health and safety of those at risk. If not, and unless otherwise required by law, the University will not formally investigate a Disclosure.

Should a student, in making a Disclosure, request support or academic accommodation, the student and the Director will meet to discuss the request. Where there is a reasonable basis for the request, the Director will work together with the student and any instructors as appropriate, to ensure that the student receives all necessary reasonable support and/or academic accommodations, while maintaining confidentiality, to the extent that it is reasonably possible to do so.

### **Making a Complaint**

Complaints must be submitted in writing to the Student Services Director.

Complaints must include sufficient detail of the allegation of Sexual Misconduct to allow the University to conduct an investigation into the Complaint, including the following:

- a. the date, time, and location of the alleged Sexual Misconduct;
- b. the names, and if available, contact information, of any individuals involved;
- c. the names, and if available, contact information, of any potential witnesses to the Sexual Misconduct; and
- d. a description of the incident in sufficient detail to provide the University with sufficient information for it to conduct an investigation.

The University recognizes that individuals who have experienced Sexual Misconduct may need some time before they are physically and/or emotionally capable and prepared to prepare and file a Complaint. However, in order to ensure the University is in a position to conduct a full and fair investigation, Complaints should be filed as soon as reasonably possible following the incident of Sexual Misconduct. Any material delay between the Sexual Misconduct and the filing of a Complaint could impact on the investigation and/or the outcome.

### **Responding to Complaints**

#### ***Ensuring Health and Safety***

When the Director receives a Complaint, their first priority will be to ensure the health and safety of those involved and of all members of the University community. In order to do so, the Director may:

**Comment [EDITOR13]:** Structural issue: This section would be more logically placed with the information above about complaints. It is key to the purpose and scope of the whole document.

**DO:** Keep topics together in one section.

- a. meet with whomever they deem necessary to determine whether there is a threat to the health or safety of any member of the University;
- b. take action the Director deems appropriate to ensure the health and safety of any member of the University community; and
- c. contact the RCMP.

In doing so, the Director will maintain the confidentiality of individuals involved to the extent that it is reasonably possible to do so.

### ***Initial Complaint Review***

When the Director receives a Complaint, prior to commencing an investigation, the Director will review the Complaint and ensure that it contains sufficient detail necessary for the University to carry out an investigation.

Where the Director determines there is insufficient detail in the Complaint, the Director will contact the individual who filed the Complaint, advise them of the deficiencies, and allow them the opportunity to provide further details in a timely manner.

Where the Director determines that a Complaint has sufficient detail necessary for the University to carry out an investigation, the Director will initiate the investigation process.

At any point prior to or during an investigation, the University may take interim measures to address any concerns it may have about the well-being of any member of the University pending the investigation, while minimizing the impact on other individuals involved and recognizing the principle of the presumption of innocence. Any interim measures relating to a Complaint should not be perceived as the University prejudging the Complaint.

### ***Where an Employee is Party to Complaint***

Where the Complaint involves a student, the University will investigate the Complaint in accordance with the process set out in these Procedures except where a party to the Complaint is an employee of the University, in which case, the University will follow one of the following procedures in investigating the Complaint:

- a. Where a party to a Complaint is a union employee whose employment is governed by a collective agreement that requires the University to investigate such Complaints in accordance with procedures provided therein, the University will investigate the Complaint in accordance with those procedures. In such circumstances, at the commencement of the investigation, the University will provide the student involved in the Complaint with a copy of those procedures.

**Comment [EDITOR14]:** Review text to assess whether information is better presented in list format.

**Comment [EDITOR15]:** Review logic of the hierarchy of headings. This heading indicates when an employee would make a complaint, but there is no parallel heading for when a student would make a complaint.

**DO:** Make an outline for your document and use headings to keep structure strong and logical.

**Comment [EDITOR16]:** Avoid legalese.

**QUESTIONS TO ASK:**

- Will the reader understand the phrase "party to a Complaint"?
- Is the term clear (in this case, there is more than one party to a complaint).

b. Where a party to a Complaint is an employee who is not subject to a collective agreement that requires the University to investigate such Complaints in accordance with procedures provided therein, the University will investigate the Complaint in accordance with the procedures provided for in the University's Respectful Workplace Policy. In such circumstances, at the commencement of the investigation, the University will provide the student involved in the Complaint with a copy of those procedures.

### ***Investigation***

Where the Director determines an investigation is to proceed under these Procedures, the Director will assess the Complaint and, depending on their assessment of the Complaint, their relevant knowledge and expertise, and any other factors they deem appropriate, will:

- a. carry out the investigation;
- b. delegate another individual at the University with the necessary knowledge and expertise to carry out the investigation internally; or
- c. engage an external investigator to carry out the investigation.

The Director will advise the parties to the Complaint that an investigation is proceeding under these Procedures, will advise them of the identity of the investigator, will notify them that the investigator will be in contact with them, and will offer both parties the option of seeking support in relation to the Complaint and/or investigation.

The investigator will carry out an investigation into the Complaint. The investigation process will be determined by the investigator and will take into account:

- a. the sensitive nature of the Complaint as a complaint of Sexual Misconduct; and
- b. the interests of all those involved in the Complaint;

while ensuring procedural fairness.

The investigation process will include, but will not necessarily be limited to:

- a. allowing the complainant the opportunity to participate in the investigation and to provide further information as appropriate;
- b. notifying the respondent of the allegations against them; and
- c. providing the respondent an opportunity to respond to the allegations.

**Comment [EDITOR17]:** Here and for highlighted word above, avoid using words/terms that have not been defined or explained.

**DO:** Use word/terms the audience will understand.

**DON'T:** Use legal terms for a general audience.

Where requested by an investigator, all members of the University community are required to cooperate and fully participate in an investigation pursuant to these Procedures. Failure to do so may lead to sanctions or discipline up to dismissal or expulsion.

Where the investigator is not the Director, upon completion of the investigation, the investigator will provide the Director an investigation report which will include a determination of whether or not the Complaint is substantiated.

Following completion of the investigation, the Director will notify the parties to the Complaint of whether or not the Complaint was substantiated.

Where the Complaint is not substantiated, the respondent to the Complaint will not be subject to sanctions or discipline for the alleged conduct complained of in the Complaint.

Where a Complaint is substantiated, the University will take steps it determines appropriate to address the substantiated Complaint which may include:

- a. steps towards ensuring the health, safety and well-being of the individual who was subject to the Sexual Misconduct which, where appropriate, may include but are not limited to:
  - i. academic accommodations;
  - ii. transfer, movement, removal from classes, or restrictions on the individual who carried out the Sexual Misconduct; and/or
  - iii. other steps to eliminate or limit contact between the complainant and the individual who carried out the Sexual Misconduct;
- b. where the individual who carried out the Sexual Misconduct is a student or employee of the University, discipline, up to dismissal or expulsion;
- c. where the individual who carried out the Sexual Misconduct is not a student or employee of the University but has a connection to the University, i.e. contractors, suppliers, volunteers or visitors who attend on campus, sanctions or any other action the University deems appropriate to address the substantiated Complaint; and
- d. any other remedies the University determines appropriate.