

## STUDENT SEXUAL MISCONDUCT PROCEDURES

### Definitions

Terms used in these pProcedures are as defined in the pPolicy.

### Scope

These pProcedures ~~set explain the steps you can take to notify the university of an incident of sexual misconduct. They also explain out the process for bringing Sexual Misconduct to the attention of the~~ and the process the university will follow in cases of sexual misconduct, where such matters are brought to its attention.

### How to Notify the University of Sexual Misconduct: Three Options

~~If a person you have experienced or witnessed ses or experiences Sexual mMisconduct, or you know s or there is reason to believe Sexual mMisconduct has occurred or may occur, you have three options to notify the university:~~

1. Making a disclosure
2. Making a formal complaint
3. Reporting to the police

You can choose one, two, or all three of these options. For example, you may decide you want to make a disclosure, and then later elevate the notification to a formal complaint.

The university recognizes that individuals who have experienced sexual misconduct may wish to maintain control over whether and how the university will deal with their experience. The choice you make on how to notify the university will affect your level of control.

#### a. Making a Disclosure

i. A dDisclosure is an informal notification to the university that sSexual mMisconduct has occurred or that a person has here is reason to believe it may occur.

ii. ~~You can A person make ing a dDisclosure may make the Disclosure to any employee of the university or support person on campus (e.g., cCounsellor, nNurse pPractitioner, dDoctor, mManager, Regional Principal, rResidence aAdvisor, sSecurity, ser Students' uUnion).~~

iii. By making a disclosure that you have experienced sexual misconduct, you A person who makes a Disclosure that they have experienced Sexual Misconduct may obtain supports (e.g., medical assistance, counselling) and

**Comment [EDITOR18]:** I have edited the heads to give more information; in this case, the reader now knows this section is "how to do it" rather than general information on disclosures, complaints, and reports.

**Comment [EDITOR19]:** Plain language principle: wherever possible, write directly to the reader (use second person – "you").

**Comment [EDITOR20]:** Suggest putting "experienced" before "witnessed" so victims are addressed first.

**Comment [EDITOR21]:** Plain language principle: Use lists for readability and clarity.

**Comment [EDITOR22]:** Examples help to clarify instructions.

**Comment [EDITOR23]:** I have moved this up from the original section on maintaining control and rearranged the information from that section throughout to make it clear in each choice provided.

**Comment [EDITOR24]:** I've reordered these steps (and split one into two) so they more logically answer the questions that are most likely at the forefront of the reader's mind: 1) What is a disclosure? 2) How do I make a disclosure? 3) How will I be helped? 4) What does the university do (or, in this case, not do)?

~~where appropriate, reasonable academic accommodations, without making a Complaint or Report.~~

~~iv. The university will not formally investigate a A disclosure unless the university believes there is an imminent risk of harm to someone or there is a legal requirement to do so. That means you will not have access to certain remedies and no one will be disciplined for what happened. If you want the university to investigate the sexual misconduct, you need to make formal complaint or a report to the police (see below).~~

~~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.~~

b. **Making a Complaint**

i. A complaint is a formal notification to the university of sexual misconduct, made by the person who experiences the sexual misconduct.

~~ii. If you are A person who is considering filing a complaint, you may consult with a counsellor or wellness coach who can answer questions and help you with the process assist the individual with the Complaint process.~~

~~iii. It is helpful to file a complaint as soon as possible after the incident of sexual misconduct. A delay in filing a complaint could affect the investigation and the outcome. However, the university recognizes that individuals who have experienced sexual misconduct may need some time before they are prepared to file a complaint.~~

~~iv. Your complaint must be submitted in writing to the Student Services Director. It must contain sufficient information of the allegations of sexual misconduct to allow the university to conduct an investigation. This includes:~~

~~a. the date, time, and location of the alleged sexual misconduct;~~

~~b. the names, and if available, contact information, of any individuals involved; and~~

~~c. the names, and if available, contact information, of any witnesses.~~

~~iv. When the university receives the Upon receipt of a complaint, ~~the~~ it will initiate begin a formal investigation. If the complaint is substantiated, you will have access to remedies that are not available through a disclosure. In this process, the university will consider your wishes as far as to the extent possible, as provided for in these Procedures.~~

v. ~~You may The person who files the Complaint may~~ withdraw the ~~c~~Complaint at any time. ~~Note, however, if you withdraw a complaint, the university may still proceed with an investigation.~~

**Comment [EDITOR25]:** This item edited to correct the overuse of negatives and simplify the statement.

~~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. **Making a Report**

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

ii. ~~The university strongly encourages anyone Individuals who experiences or witnesses s~~Sexual ~~m~~Misconduct ~~that they believe is a crime that rises to the level of criminal conduct are strongly encouraged to file a~~ rReport.

iii. ~~If you a person~~ advises the university that ~~they you~~ intend to make a rReport, ~~the will make available to them~~ a support person on campus ~~who can support them in making help you with it. the Report.~~

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

v. The university may be required to initiate an investigation and/or report of alleged sexual misconduct to the RCMP, even without your the consent of the individual who has experienced the sexual misconduct, in certain cases:

a. if the allegation involves sSexual ~~m~~Misconduct involving a minor;

b. if the law applicable legislation requires the university to carry out an investigation; or

c. if the university has a reasonable belief that believes there exists a risk to the health or safety of a member of the university community.

If the university initiates an investigation or informs the RCMP about alleged sexual misconduct without the your consent of the individual, the university will notify that individual you that it has done so.

**Comment [EDITOR26]:** Edited to be more direct and succinct. I also think you need to be cautious of wording that the misconduct might "rise to the level..." which could be read as judging the severity of how the misconduct impacted the survivor/person. I do understand the legal nuance, and that to be a crime, several tests must be met – but the point here is that a person may report the incident to the police – and the police will then determine if a crime has been committed.

**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 univeristy. Which of the above option(s) the individual elects to pursue will impact on the level of that control.~~

**Comment [EDITOR27]:** This section was problematic structurally. I have incorporated the information into other sections of the document.

## How the University Responds to Disclosures

Comment [EDITOR28]: I have edited this section to keep the point of view to the reader – the victim – rather than to the person receiving the disclosure.

When an individual makes a disclosure of sexual misconduct to an employee of the university or support person on campus that they have experienced Sexual Misconduct, you can expect the employee or support person should to:

- a. listen without judgment;
- b. communicate that Sexual Misconduct is not the your fault; ~~fault of the person who has experienced it~~;
- c. help the individual you to identify and/or access available services on or off campus, ~~services~~ such as emergency medical care or counselling;
- d. respect the individual's your right to choose the services they you 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 your an individual's ability ability to recall the events may be limited or otherwise impacted;
- f. respect the individual's your choice about how much they you disclose about their your experience; and
- g. make every effort to respect your confidentiality and anonymity.

University employees who receive a disclosure ~~is made~~ or who otherwise become aware of sexual misconduct are required to notify the Student Services Director ~~(the "Director") or~~ university security. They will not disclose your identity (or the identity of anyone else involved) ~~The identities of the individuals involved in the Sexual Misconduct should only be unless required disclosed where reasonably required~~ for university purposes and/or ~~for the purposes of~~ protecting the health and safety of any individual.

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 anyone's the health or safety ~~of anyone~~. If so, they 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 ~~unless required by law~~.

If you ~~Should a student, in making a Disclosure, ask for request~~ support or academic accommodation when you make a disclosure, the ~~the student and the~~ Director will meet with you to discuss the your request and work with you and any instructors, as needed, to meet your needs. The Director will keep the information confidential maintain ~~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, as far as to the extent that it is reasonably possible, to do so.~~

## **How the University Responds ~~ing~~ to Complaints**

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

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

- a. meet with ~~anyone whom they deem~~ necessary to determine whether there is a threat to the health or safety of any member of the university;
- b. take appropriate 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,~~ Tthe Director will maintain the confidentiality of individuals involved as far as to the extent that it is reasonably possible to do so.

### ***Reviewing the ~~Initial~~ Complaint***

#### **A complaint against a student**

~~If you make a formal~~ complaint against another student, the university Director will take the following steps: **Review**

1. ~~The Director will R~~review the complaint to ensure it contains enough detail to carry out an investigation.
2. ~~If there is not enough detail in the complaint, the Director will C~~contact you and give you the opportunity to provide further details, if needed.
3. ~~If the Director determines that a complaint has enough detail, they will l~~initiate an investigation if there is enough detail.
4. ~~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.~~

**Comment [EDITOR29]:** I have added sub-heads to this section to help orient the reader to the next steps.

~~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 time prior before to~~ or during an investigation, the ~~univeristy~~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 ~~upholding the recognizing~~ the principle ~~that a person is presumed innocent until found guilty. of the presumption of innocence.~~

**Comment [EDITOR30]:** Simplify words and phrases where possible.

**Comment [EDITOR31]:** I've restructured and heavily edited this section. The original topic sentence referenced a student respondent, underneath the heading referring to employees, and the legalese language will be challenging to most readers.

### **A complaint against an employee**

~~4. If you make a formal complaint against an employee, the university will investigate in one of the following ways:~~

~~1. a. If the person you accuse of sexual misconduct Where a party to a Complaint is a union employee whose employment is governed by a collective agreement, the university will investigate following the procedures of the collective at agreement.~~

**Comment [EDITOR32]:** "Party to a complaint" (used in the original) is not helpful language. Besides being legalese, it is not clear, because both the person making the complaint and the person accused are a "party."

~~2. b. If the person you accuse of sexual misconduct Where a party to a Complaint is an employee who is a non-union employee, not subject to a collective agreement that requires the university to will investigate following such Complaints in accordance with procedures provided therein, the 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 will provide the student involved in the Complaint with a copy of these procedures.~~

**Comment [EDITOR33]:** Changed to simply "non-union" for fewer words and clarity.

In both these cases, the university will provide you with a copy of the relevant procedures at the start of the investigation.

### **Investigating the Complaint**

~~Whenre the Director determines an investigation should proceed, they will decide the next steps depending on their assessment of the complaint. They will either: 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~~someone else at the university ~~who has 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 everyone involved in the parties to the cComplaint that an investigation is proceeding ~~under these Procedures and who the investigator will be.~~ ~~will advise them of the identity of the investigator.~~ They will also notify those involved that the investigator will contact them, and offer ~~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~~ determine the investigation process of the investigation, considering: ~~d by the investigator and will take into account:~~

- a. the sensitive nature of ~~the Complaint as~~ a complaint of sSexual mMisconduct; 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 you, as the person who made the complaint, an~~ the opportunity to participate in the investigation and to provide further information ~~as appropriate;~~
- b. notifying the person accused ~~respondent~~ of the allegations against them; and
- c. providing the person accused ~~respondent~~ an opportunity to respond to the allegations.

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. If they do not, they may be sanctioned or disciplined. This may include being dismissed Failure to do so may lead to sanctions or discipline up to dismissal or expulsion.~~

### After the Investigation

~~Once the investigation is complete, the investigator will write a report that will state whether the complaint has been proven. If the investigator is someone other than the Director, they will give the report to the Director. 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, T~~the Director will notify those involved the parties to the Complaint of whether or not the cComplaint was found to be substantiated.

**Comment [EDITOR34]:** Removed this phrase because without a clear definition it is not helpful. Also, the entire process implies "procedural fairness," so I don't think you need it.

**Comment [EDITOR35]:** I have changed language here because you do not define "respondent," which not every reader will understand.

**Comment [EDITOR36]:** "Pursuant to" is legalese (and the phrase isn't needed in this sentence for the meaning).

**Comment [EDITOR37]:** I have changed "substantiated" here to "proven," acknowledging that there is a slight difference in meaning. Please review and okay, if possible (in which case other references to "substantiated" can also be changed). If it can't be changed, can "substantiated" be briefly defined? What does it take to be "substantiated"?

~~Where~~ **If the cComplaint is not substantiated**, the person accused will not have any respondent to the Complaint will not be subject to sanctions or discipline imposed. ~~for the alleged conduct complained of in the Complaint.~~

~~If the Where a cComplaint is substantiated~~, the university will take steps it determines appropriate actions, to address the substantiated Complaint which may include:

- a. steps ~~towards~~ ensure ing the health, safety and well-being of the individual who ~~experienced was subject to~~ the sSexual mMisconduct. This which, where appropriate, may include but are not limited to:
  - i. academic accommodations (e.g., extension on an assignments);
  - ii. transfer ~~or, movement,~~ removal from classes, or restrictions on the individual who carried out the sSexual mMisconduct; and/or
  - iii. other steps to eliminate or limit contact between the person who made the complainant and the individual who carried out the sSexual mMisconduct;
- b. where the individual who carried out the sSexual mMisconduct is a student or employee of the university, discipline, up to being dismissed or expelled;
- c. where the individual who carried out the sSexual mMisconduct is not a student or employee of the university but is has a connected in some way ion to the university (e.g., i.e. a 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 as appropriate.