

STUDENT SEXUAL MISCONDUCT PROCEDURES

Definitions

Terms used in these procedures are as defined in the policy.

Scope

These procedures explain the steps you can take to notify the university of an incident of sexual misconduct. They also explain the process the university will follow in cases of sexual misconduct.

How to Notify the University of Sexual Misconduct: Three Options

If you have witnessed or experienced sexual misconduct, or you know sexual misconduct 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 disclosure is an informal notification to the university that sexual misconduct has occurred or that there is reason to believe it may occur.
- ii. You can make a disclosure to any employee of the university or support person on campus (e.g., counsellor, nurse practitioner, doctor, manager, residence advisor, security, student union).
- iii. By making a disclosure that you have experienced sexual misconduct, you may obtain supports (e.g., medical assistance, counselling) and where appropriate, reasonable academic accommodations.
- iv. The university will not formally investigate 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).

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 considering filing a complaint, you may consult a counsellor or wellness coach who can answer questions and help you with the 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 complaint, it will 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 possible.

v. You may withdraw the complaint at any time. Note, however, if you withdraw a complaint, the university may still proceed with an investigation.

c. Making a Report

i. A report is a notification to the RCMP that sexual misconduct has occurred that a person believes is a crime.

ii. The university strongly encourages anyone who experiences or witnesses sexual misconduct that they believe is a crime to file a report.

iii. If you advise the university that you intend to make a report, a support person on campus can help you with it.

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.

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

- a. if the allegation involves sexual misconduct involving a minor;
- b. if the law requires the university to investigate; or
- c. if the university believes there is 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 your consent, the university will notify you that it has done so.

How the University Responds to Disclosures

When you make a disclosure of sexual misconduct to an employee of the university or support person on campus, you can expect the employee or support person to:

- a. listen without judgment;
- b. communicate that sexual misconduct is not your fault;
- c. help you identify and/or access available services on or off campus, such as emergency medical care or counselling;
- d. respect your right to choose the services you feel are most appropriate, and to decide whether to make a complaint or a report;
- e. recognize that disclosing sexual misconduct can be traumatic, and that your ability to recall the events may be limited or otherwise impacted;
- f. respect your choice about how much you disclose about your experience; and
- g. make every effort to respect your confidentiality and anonymity.

University employees who receive a disclosure or who otherwise become aware of sexual misconduct are required to notify the Student Services Director or university security. They will not disclose your identity (or the identity of anyone else involved) unless required for university purposes or to protect the health and safety of any individual.

The Director and/or university security who receives the information will assess it and determine whether there is a risk to anyone's health or safety. If so, they will

take steps to protect those at risk. If not, the university will not formally investigate a disclosure unless required by law.

If you ask for support or academic accommodation when you make a disclosure, the Director will meet with you to discuss your request and work with you and any instructors, as needed, to meet your needs. The Director will keep the information confidential as far as possible.

How the University Responds to Complaints

Ensuring Health and Safety

When the Director receives a complaint, their first priority is to ensure the health and safety of those involved and of all members of the university community. To do this, the Director may:

- a. meet with anyone necessary to determine whether there is a threat to the health or safety of any member of the university;
- b. take appropriate action to ensure the health and safety of any member of the university community; and
- c. contact the RCMP.

The Director will maintain the confidentiality of individuals involved as far as possible.

Reviewing the Complaint

A complaint against a student

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

1. Review the complaint to ensure it contains enough detail to carry out an investigation.
2. Contact you and give you the opportunity to provide further details.
3. Initiate an investigation if there is enough detail.

At any time before or during an investigation, the university may take interim measures to address any concerns about the well-being of any member of the university, while minimizing the impact on other individuals involved and upholding the principle that a person is presumed innocent until found guilty.

A complaint against an employee

1. If you make a formal complaint against an employee, the university will investigate in one of the following ways: If the person you accuse of sexual

misconduct is a union employee, the university will investigate following the procedures of the collective agreement.

2. If the person you accuse of sexual misconduct is a non-union employee, the university will investigate following the procedures in the university's Respectful Workplace Policy.

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

When the Director determines an investigation should proceed, they will decide the next steps depending on their assessment of the complaint. They will either:

- a. carry out the investigation;
- b. delegate someone else at the university who has the 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 complaint that an investigation is proceeding and who the investigator will be. They will also notify those involved that the investigator will contact them, and offer the option of seeking support in relation to the complaint and/or investigation.

The investigator will determine the investigation process, considering:

- a. the sensitive nature of a complaint of sexual misconduct; and
- b. the interests of all those involved.

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

- a. allowing you, as the person who made the complaint, an opportunity to participate in the investigation and to provide further information;
- b. notifying the person accused of the allegations against them; and
- c. providing the person accused 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. If they do not, they may be sanctioned or disciplined. This may include being dismissed or expelled.

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.

The Director will notify those involved whether the complaint was found to be substantiated.

If the complaint is not substantiated, the person accused will not have any sanctions or discipline imposed.

If the complaint is substantiated, the university will determine appropriate actions, which may include:

- a. steps to ensure the health, safety and well-being of the individual who experienced the sexual misconduct. This may include but not limited to:
 - i. academic accommodations (e.g., extension on an assignments);
 - ii. transfer or 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 person who made the complaint 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 being dismissed or expelled;
- c. where the individual who carried out the sexual misconduct is not a student or employee of the university but is connected in some way (e.g., a contractor, volunteer, visitor on campus), sanctions or any other action the university deems appropriate; and
- d. any other remedies the university determines as appropriate.