

<b>Addressing Sexual Violence Procedure</b>			
<b>Parent Policy</b>	Harassment, Violence, and Sexual Harassment Policy		
<b>Policy Sponsor</b>	Chief Human Resource Officer Provost & Vice President Academic	<b>Category</b>	Administrative
<b>Policy Contact</b>	Deputy Chief Human Resource Officer Deputy Provost Academic Operations	<b>Effective Date</b>	May 8, 2019
<b>Procedure Contact</b>	Deputy Chief Human Resource Officer Deputy Provost Academic Operations	<b>Review Date</b>	May 8, 2020

### 1. Purpose

This document outlines the procedures used by the University in responding to Sexual Violence.

### 2. Scope

This procedure is made under and complements the [Harassment, Violence, and Sexual Violence Policy](#) and applies to all Members of the University Community and to all locations to which that policy applies.

This procedure does not apply to or seek to limit any authorized academic or research projects or purposes that may include topics of Sexual Violence.

### 3. Definitions

The definitions in this procedure are in addition to those provided for in the [Harassment, Violence, and Sexual Violence Policy](#). In the event of an inconsistency, the definition provided in this procedure applies for the purposes of this procedure.

<b>Coercion</b>	Within the context of sexual violence, coercion is an unreasonable and persistent pressure for sexual activity. Coercion can be through emotional manipulation, blackmail, threats to family, pets or friends, or the promise of rewards or special treatment, to persuade someone to do something that they would otherwise not, such as being sexual or performing sexual acts.
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<b>Complainant</b>	A Member of the University Community who believes they have been a victim of, witness to, or who has become aware of Sexual Violence and who has made a Disclosure or Complaint.
<b>Complaint</b>	Formal, written allegation of Sexual Violence under this procedure made by a Member of the University Community.
<b>Consent</b>	<p>The voluntary and explicit agreement to engage in the sexual activity in question. It is the act of willingly agreeing to engage in specific sexual behavior, and requires that a person is able to freely choose between two options: yes and no. This means that there must be an understandable exchange of affirmative words which indicates a willingness to participate in mutually agreed upon sexual activity.</p> <p>It is imperative that Members understand that a person is <b>not</b> giving consent when the person:</p> <ul style="list-style-type: none"> <li>• is silent, asleep, unconscious, non-communicative or otherwise unable to communicate;</li> <li>• has been threatened or Coerced;</li> <li>• is impaired by alcohol or drugs;</li> <li>• has a mental disability preventing the person from fully understanding the sexual acts or Consent;</li> <li>• withdraws consent at any time during the course of a sexual encounter.</li> </ul>
<b>Disclosure</b>	The act of telling another individual about an incident of Sexual Violence to seek support, counselling or other services, or to obtain information about formal reporting options.
<b>Final Report</b>	A written report providing the conclusions reached by an investigator following an investigation. A Final Report will include established factual findings and analyses, discussions of credibility and reliability where required, assessments of whether there has been a policy or legal breach, conclusions as to each allegation, and recommended outcomes.
<b>Interim Measures</b>	Non-disciplinary conditions that may be imposed on a temporary basis to create or ensure a safe, healthy and respectful working or learning environment. Interim

	<p>Measures may be made in response to a Disclosure, informal efforts to resolve an incident, upon receipt of a Complaint, or before, during or after an investigation or mediation.</p> <p>Interim Measures may be imposed where, for example:</p> <ol style="list-style-type: none"> <li>i. the alleged conduct would be a significant violation of the <a href="#"><u>Harassment, Violence, and Sexual Violence Policy</u></a>;</li> <li>ii. where the alleged conduct would create an ongoing risk to an individual, the University Community or the reputation of the University; or</li> <li>iii. where necessary to ensure the integrity of an investigation is not jeopardized.</li> </ol> <p>Interim Measures may be imposed to ensure personal safety, prevent retaliation or reprisal, protect confidentiality, minimize disruptions to the learning or working environment, or to preserve the University's ability to respond under the <a href="#"><u>Harassment, Violence, and Sexual Violence Policy</u></a> and its procedures.</p>
<b>Harassment</b>	<p>Any single incident or repeated incidents of objectionable or unwelcome conduct, comment, bullying or action by a person that the person knows, or ought reasonably to know, will or would cause offence or humiliation to another person or adversely affects another person's physical or psychological well-being.</p> <p>Harassment does not include the reasonable conduct or actions of the University in respect of the management of its Members.</p> <p>Harassment made on the basis of, or in relation to, a person's sexuality is Sexual Harassment.</p>
<b>Reporting Officer</b>	<p>The person responsible for the receipt of Complaints of Harassment, Violence or Sexual Violence. The Reporting Officer is:</p>

	<ul style="list-style-type: none"> <li>i. for students, the Provost &amp; Vice President Academic (or their designate);</li> <li>ii. for all others, the Chief Human Resource Officer (or their designate); and</li> <li>iii. if the subject of a Complaint is the usual Reporting Officer, the University Secretary.</li> </ul> <p>In the event that the relevant Reporting Officer or their designate is unavailable, a Complainant can contact:</p> <ul style="list-style-type: none"> <li>i. for students, the Deputy Provost Academic Operations; and</li> <li>ii. for all others, the Deputy Chief Human Resources Officer.</li> </ul>
<b>Respondent</b>	A Member who has been alleged to have engaged in Sexual Violence.
<b>Sexual Harassment</b>	<p>Any single incident or repeated incidents of objectionable or unwelcome conduct, comment, bullying or action by a person that the person knows, or ought reasonably to know, will or would cause offence or humiliation to another person or adversely affects another person's physical or psychological well-being made on the basis of, or in relation to, a person's sexuality.</p> <p>Sexual Harassment is considered a form of Sexual Violence.</p>
<b>Sexual Violence</b>	<p>A single incident or repeated incidents of violence, whether physical or psychological, that is threatened, attempted or committed against a person without the person's consent through sexual means, coercion, or by targeting the person's sexuality. Sexual Violence includes, but is not limited to:</p> <ul style="list-style-type: none"> <li>• Sexual Assault;</li> <li>• Sexual Harassment;</li> <li>• indecent exposure;</li> <li>• voyeurism;</li> <li>• degrading sexual imagery; and</li> <li>• distribution of sexual images or video of a Member without their Consent.</li> </ul>

<p><b>Sexual Assault</b></p>	<p>Non-consensual sexual actions done by a person to another that violates their sexual integrity. Sexual Assault includes a range of behaviours including, but not limited to:</p> <ul style="list-style-type: none"> <li>• unwanted touching or penetration; and</li> <li>• the use of force, threats, or control of another person such that the person feels fearful, distressed, or threatened into sexual activity.</li> </ul> <p>Sexual Assault is a criminal offence under the Canada <i>Criminal Code</i>.</p>
<p><b>Support Resources</b></p>	<p>Confidential and objective resources that may be utilized for support by a Member affected by Harassment, Violence or Sexual Violence. Support Resources may include:</p> <p>Generally:</p> <ul style="list-style-type: none"> <li>• Alberta Health Services</li> <li>• Alberta Association of Sexual Assault Services</li> <li>• Friends, family, trusted colleagues, legal counsel</li> </ul> <p>Student-specific:</p> <ul style="list-style-type: none"> <li>• Counselling Services</li> <li>• Student Wellness Program (Homewood Health)</li> </ul> <p>Employee-specific:</p> <ul style="list-style-type: none"> <li>• Employee Family Assistance Program</li> <li>• A supervisor</li> <li>• A union representative</li> <li>• Human resources department</li> </ul>
<p><b>University Community</b></p>	<p>All faculty and staff, students, Board Members, contractors, postdoctoral fellows, volunteers, visitors and other individuals who work, study, conduct research or otherwise carry on business of the University.</p>

#### 4. Guiding Principles

- 4.1. This procedure is made under the [Harassment, Violence, and Sexual Violence Policy](#) and is to be read consistent with that policy. This procedure adopts and supports the Guiding Principles of that policy.

- 4.2. The University recognizes that Sexual Violence can occur between individuals regardless of their relationship status, sexual orientation, gender or gender identity.
- 4.3. The University strives to provide autonomy to those affected by Sexual Violence to allow them to control and manage how their experience is handled. Where possible, the University will provide this autonomy. However, the University reserves the right to act on its own initiative, including where necessary to act in the interest of the safety of others.
- a) In certain circumstances, the University may be obligated, upon becoming aware of an incident or allegation of Sexual Violence, to proceed with an investigation or to provide information to appropriate authorities (such as the RCMP or local law enforcement agency) even in the absence of a formal Complaint or the permission of the person subject to the alleged Sexual Violence.
  - b) The University will use its best efforts to balance the personal wishes of those affected, its confidentiality obligations, and its obligations to ensure a safe, healthy and respectful learning and working environment.
- 4.4. The University will endeavor to ensure Members are aware of the protections and obligations of confidentiality, and the limitations on confidentiality and anonymity, as set out in the [Harassment, Violence, and Sexual Violence Policy](#).

## 5. Reporting Sexual Violence

- 5.1. A Member who has been the subject of, or become aware of, Sexual Violence has several resources available. The Member may do one or any of the following:
- a) access Support Resources;
  - b) make a Disclosure to a Reporting Officer or another trusted individual about the incident and seek advice on how to proceed; and
  - c) file a formal Complaint.

Members who are subject to Sexual Violence are encouraged to come forward in a manner they are comfortable with as soon as they are able to do so.

5.2. Where a Member intends to file a formal Complaint regarding an incident of Sexual Violence made against a person other than the Member, the Member should first carefully consider the confidentiality and personal wishes of the other person subject to the Sexual Violence. The Member may wish to get the permission of the other person before choosing to file a Complaint.

5.3. Upon becoming aware of an incident of Sexual Violence, the University may at any time:

- a) inform any affected person about the availability of Support Resources;
- b) take any action, including making any communications considered necessary, to ensure the ongoing safety of other Members;
- c) consider and implement Interim Measures;
- d) choose to initiate an investigation notwithstanding the absence of a formal Complaint (see Section 4.3); and
- e) contact another appropriate authority such as the RCMP or local law enforcement agency.

5.4. A person who is not a Member, but who has been the subject of, or become aware of, Sexual Violence by a Member within the scope of this procedure, may bring their information to the attention of the University through the Chief Human Resource Officer.

## **6. Forms of Reporting**

### **6.1. Disclosures**

- a) A Disclosure is not a Complaint for the purposes of this procedure. Making a Disclosure does not obligate the disclosing party to file a formal Complaint. However, a Member receiving a Disclosure may file a Complaint on their own behalf where appropriate (subject to the caution at Section 5.2 and any obligations as an employee at Subsection 6.1(c)).

- b) A Member who receives a Disclosure should be respectful and supportive and encourage the disclosing individual to access Support Resources or to contact a Reporting Officer or other appropriate authority. A Member receiving a Disclosure is also entitled to access Support Resources if needed.
- c) An employee of the University receiving a Disclosure may need to report an allegation of Sexual Violence to an appropriate authority, such as a Reporting Officer, or the RCMP or local law enforcement agency, where:
  - i. the alleged Sexual Violence involves a minor person;
  - ii. the disclosing party is in danger of further harm and intervention of Support Resources is advisable;
  - iii. the employee has reasonable grounds to believe that one or more Members have an ongoing risk of related Sexual Violence;
  - iv. a delay in reporting could cause any subsequent investigation to be prejudiced or impossible; or
  - v. reporting is required under a relevant code of conduct or professional standard of practice applicable to a professional organization to which the Member belongs.

An employee receiving a Disclosure who is uncertain how to proceed may seek assistance from the Chief Human Resource Officer.

## 6.2. Formal Complaints

- a) A formal Complaint may be filed by any Member, in writing using the [Formal Harassment, Violence or Sexual Violence Complaint Form](#), to a Reporting Officer. The Reporting Officer is:
  - i. for students, the Provost & Vice President Academic (or their designate);
  - ii. for all others, the Chief Human Resource Officer (or their designate); and

- iii. if the subject of a Complaint is the usual Reporting Officer, the University Secretary.

In the event that the relevant Reporting Officer or their designate is unavailable, a Complainant can contact:

- i. for students, the Deputy Provost Academic Operations; and
  - ii. for all others, the Deputy Chief Human Resources Officer.
- b) A Complainant filing a formal Complaint may still request that the Reporting Officer not conduct an investigation. In this situation, the Complainant will be advised that the scope of the investigation may be impacted as well as the Reporting Officer's ability to draw conclusions from any investigation. If the Reporting Officer proceeds to investigate notwithstanding the request, the Complainant has the right to not participate in the investigation.
- c) Upon receipt of a Complaint alleging Sexual Violence, the Reporting Officer, or another party designated to address the Complaint, will act promptly to:
- i. determine if the allegations surpass a minimum threshold of credibility to move forward;
  - ii. assess the details of the allegation to determine whether the Complaint meets the definition of Sexual Violence and whether the persons involved are Members;
  - iii. ensure any persons affected are aware of appropriate Support Resources;
  - iv. where a Complainant or Respondent is a union member, whether a review of collective agreements or consultation with a union representative is required
  - v. make necessary arrangements to do any or all of the following as considered appropriate in the circumstances:
    - i. refer the Complaint to be addressed under the [Addressing Harassment and Violence Procedure](#) if the allegation does not involve Sexual Violence;

- ii. appoint an investigator and have an investigation conducted under Section 7;
  - iii. refer the Complaint to an appropriate authority such as the RCMP or local law enforcement agency; and
  - iv. communicate to any persons affected to inform them of the next steps.
- d) A Member may withdraw their Complaint at any time. However, where an investigation has been initiated, a Member's withdrawal does not preclude the investigation from being completed and corrective action being taken.
- e) A Member who has filed a Complaint remains entitled to access any Support Resources and to receive consideration for any appropriate accommodation requests regardless of their participation or non-participation in the related investigation.
- f) If a Complaint involves the same or substantially the same incident as an ongoing civil or criminal investigation, the University may proceed with its own investigation, or it may choose to defer its process until the civil or criminal investigation is concluded.

## 7. Investigations

7.1. Where the Reporting Officer determines that an investigation will proceed, the investigation shall be initiated upon the appointment of either an internal or external investigator by the Reporting Officer.

7.2. Upon initiating an investigation, the Reporting Officer shall provide to the Complainant and the Respondent a document indicating:

- a) that an investigator has been appointed;
- b) the individual allegations made by the Complainant against the Respondent that will be investigated; and
- c) any Interim Measures that will be implemented or continued during the investigation.

7.3. Any investigation shall respect the principles of procedural fairness. In the context of an investigation into a Complaint alleging Sexual Violence, an investigation will include that:

- a) the Respondent is provided with the particulars of the allegations and is given an opportunity to respond to them;
- b) the Respondent has the right to be apprised of, and to respond to, new information obtained during the investigation;
- c) the Complainant and Respondent have the right to be advised of the outcome of the investigation;
- d) during the investigation, the Complainant, Respondent, and any witnesses will be made aware of their obligations of confidentiality and provided an indication of how their statements may be used, including that full anonymity may not be possible in some circumstances; and
- e) where a Complainant or Respondent is a University employee who is a member of a bargaining unit, that individual shall be informed that they have a right to union representation (subject to any other obligations contained in a collective agreement).

7.4. A Complainant, Respondent or witness is permitted to have a support person or animal present during the investigation process. No accompanying support person may advocate on the person's behalf.

7.5. The investigator shall conduct and complete the investigation in a timely manner.

7.6. Upon the conclusion of the investigation, the investigator shall complete a Final Report and provide the Final Report to the University Reporting Officer.

- a) If the investigator does not substantiate any allegation contained in a Complaint, the investigator will also make a determination if the Complaint was made frivolously, vexatiously, or in bad faith, and include that determination in the Final Report.

7.7. Upon receipt of the Final Report, the Reporting Officer shall provide to the Complainant and Respondent within a reasonable time, a summary of the Final Report outlining its findings and conclusions.

- a) Where an investigation substantiates an allegation against a Respondent, the Respondent may file, in writing, an appeal of the investigation's findings to the President of the University (or their delegate) within 10 days of receiving the summary of the Final Report.
- b) The President will consider all relevant factors in determining whether to accept or decline the appeal, in whole or in part. The President may determine any remedial procedure or outcome deemed appropriate. The decision of the President will be final.
- c) The appeal of an investigation's findings does not preclude an employee Member from accessing any other procedure relevant and available under their collective agreement.

7.8. At any point in the investigation process a resolution to the Complaint may be reached with the mutual consent of the Complainant and Respondent.

- a) The University may choose to continue any investigation notwithstanding the existence of a mutually agreeable resolution having been reached.

## 8. Responding to Sexual Violence

8.1. Upon the conclusion of any investigation, the University Reporting Officer shall:

- a) work with applicable parties to determine and implement any corrective measures necessary, including any disciplinary action in accordance with the [Harassment, Violence, and Sexual Violence Policy](#);
- b) consider whether a review of the [Harassment, Violence, and Sexual Violence Policy](#) or this procedure are necessary to prevent the reoccurrence of the same or similar incident as the one investigated;
- c) review, revise, or cancel any Interim Measures implemented;
- d) make any notifications or communications to any Members or persons affected as determined necessary; and
- e) arrange for any relevant documentation to be retained.

8.2. An incident leading to a Complaint shall be considered closed by the University upon the conclusion of Section 8.1, except where:

- a) a related investigation is ongoing by either the University or another authority; or
- b) where the Reporting Officer determines further actions are necessary before the matter is said to be concluded.

## 9. Accessing Support Resources

9.1. The University provides, and facilitates access to, a number of Support Resources which Members affected by Sexual Violence can turn to. These include, but are not limited to:

- a) Support Resources include may include:
  - i. Generally:
    - Alberta Health Services
    - Alberta Association of Sexual Assault Services
    - Friends, family, trusted colleagues, legal counsel
  - ii. Student-specific:
    - Counselling Services
    - Student Wellness Program (Homewood Health)
  - iii. Employee-specific:
    - Employee Family Assistance Program
    - A supervisor
    - A union representative
    - Human resources department

9.2. The University strongly encourages Members affected by Sexual Violence to make a Disclosure to their Reporting Officer.

## 10. Additional Confidentiality and Record Keeping Matters

10.1. In addition to the confidentiality and record maintenance and retention provisions set out in the **Harassment, Violence and Sexual Violence Policy**, additional considerations apply to matters pertaining to Sexual Violence as follows:

- a) The University will collect information, through the Reporting Officers, of matters of Sexual Violence involving Members and may provide to the Ministry of Advanced Education, upon request, such information as may be requested including the:
  - i. number of times supports and services relating to sexualized violence are requested and obtained by active students and information about those supports and services;
  - ii. number of Reports and Complaints of sexualized violence; and
  - iii. implementation and effectiveness of the [Harassment, Violence and Sexual Violence Policy](#) and this [Addressing Sexual Violence Procedure](#).
- b) To the extent possible, the confidentiality and privacy of all persons involved in a Sexual Violence Complaint will be respected and observed. The University recognizes and acknowledges the highly sensitive nature of the subject matter.
- c) The Reporting Officers are authorized to collect, use and disclose personal information, individually identifying information and any other information considered necessary to manage, investigate, and report on Complaints.

## 11. Applicable Legislation and Regulations

[Alberta Freedom of Information and Protection of Privacy Act \(FOIP Act\)](#)  
[Alberta Human Rights Act](#)  
[Canadian Human Rights Act](#)  
[Charter of Rights and Freedoms](#)  
[Criminal Code of Canada-R.S.C., 1985, c. C-46 \(Section 153.1\)](#)  
[Post-Secondary Learning Act](#)  
[Alberta Occupational Health and Safety Act](#)  
[Occupational Health and Safety Regulation](#)  
[Occupational Health and Safety Code\(s\)](#)

## 12. Related Procedures/Documents

[AUPE/The Governors of Athabasca University \(the Board\) Collective Agreement](#)  
[CUPE/The Governors of Athabasca University \(the Board\) Collective Agreement](#)  
[AUFA/The Governors of Athabasca University \(The Board\) Collective Agreement](#)  
[AUGSA/The Governors of Athabasca University \(The Board\) Collective Agreement](#)  
[Code of Conduct for Members of the University Community](#)

[Harassment, Violence, and Sexual Violence Policy](#)  
[Addressing Harassment and Violence Procedure](#)  
[Formal Harassment, Violence and Sexual Violence Complaint Form](#)  
[Non-Academic Misconduct Policy \(Academic, students\)](#)  
[Protected Disclosure \(Whistleblower\) Policy](#)  
[Protection of Privacy Policy](#)

### History

<i>Date</i>	<i>Action</i>
May 8, 2019	Executive Team (Policy Approved)