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Sexual Violence Disclosures and Complaints Procedure

Office of Administrative Responsibility:	Vice Provost and Dean of Students Vice Provost and Associate Vice-President (Human Resources)
Approver:	Vice-President (Academic) & Vice-President (Finance and Administration)
Scope:	Compliance with this University procedure extends to all members of the University community .

1. OVERVIEW

- a. The University recognizes the difference between a **disclosure** and a **complaint**, and is committed to responding to and reducing **sexual violence** and attending to its effects by providing
 - supports and resources to persons who have experienced sexual violence and to any other member of the University community who has been affected by sexual violence,
 - **interim measures** to ensure the safety of the University's learning, working and residence environment,
 - processes to fairly adjudicate formal complaints of sexual violence, and
 - education and training to the University community about sexual violence and, in particular, to those investigating and adjudicating complaints of sexual violence.
- b. The University will consult with University of Alberta Protective Services (UAPS), Human Resource Services, legal, medical, and/or psychological experts and others as appropriate in determining how to act on disclosures or complaints of sexual violence.

2. PURPOSE

The purpose of this procedure is to

- provide guidance to members of the University community on receiving and responding to disclosures of sexual violence,
- outline supports, **modifications** and protections the University may be able to offer to persons who have experienced sexual violence,
- provide authority for the imposition of interim measures to ensure the safety of the working, learning and University residence environment,
- describe the procedures through which complaints of sexual violence will be addressed and, where warranted, discipline imposed, and
- address education and training in, and awareness of, sexual violence for the University community generally and, in particular, for those investigating and adjudicating complaints of sexual violence.

PROCEDURE

The University's response to a disclosure will, to the extent possible, be guided by the wishes of the person who experienced the sexual violence. In this regard, in response to a disclosure, the person who experienced sexual violence can ask the University to provide supports and resources, facilitate academic, residential, recreation

and/or work modifications, consider the imposition of interim measures, and initiate an investigation of a complaint in accordance with the procedures in applicable agreements or policies.

3. INTERIM MEASURES

- a. Interim measures are non-disciplinary conditions that may be imposed on a person alleged to have committed sexual violence. The University may impose interim measures in response to either a disclosure or a complaint where the allegations would
 - i. if proven, constitute sexual violence, and
 - ii. with regard to all of the circumstances, be a risk to an individual, the community or the integrity of any potential investigation.
- b. The purpose of such interim measures is to ensure personal safety, discourage or prevent **retaliation**, prevent further sexual violence, protect confidentiality, minimize disruption to the learning, working or University Residence environment and/or preserve the University's ability to conduct a thorough investigation.
- c. Having regard to all of the circumstances, where interim measures are imposed, they must be, appropriate and proportionate to the seriousness of the alleged conduct, and as minimally restrictive as possible to achieve their purposes. As a result, interim measures will be based on considerations including, but not limited to:
 - i. the reasonable wishes of the person who experienced the sexual violence,
 - ii. the nature and/or severity of the alleged conduct,
 - iii. reasonably credible information about patterns of conduct or previous history of sexual violence or other misconduct,
 - iv. the potential impact of the measures on the person(s), including on their academic program and/or employment,
 - v. the potential impact of the measures on the learning, working or University Residence environment,
 - vi. in the case of employees, in accordance with their relevant collective agreement, and
 - vii. any other relevant information.

Examples of interim measures can be found in the University's *Sexual Violence Interim Measures Information Document*.

- d. The decision to impose interim measures will be made by:
 - i. in the case of students, the Vice-Provost and Dean of Students, or designate.
 - ii. in the case of faculty and staff, the Provost and Vice-President (Academic) and/or the Associate Vice-President (Human Resources), or designate.
 - iii. in the case of postdoctoral fellows, the Vice-President (Research) , or designate.

Decision makers may consult as needed in determining whether to impose interim measures and the nature of those measures.

- e. In all cases, decisions on interim measures must be provided in writing and include:
 - i. particulars of the measure(s),
 - ii. information about the right to request a reconsideration,
 - iii. information about relevant complaint processes, if applicable, and
 - iv. referrals to supports and/or services.
- f. The person(s) on whom interim measures are imposed may request a reconsideration from the decision maker after sixty (60) days or such earlier time as agreed to by the decision maker. Further, at any time, the decision maker may on his or her own initiative reconsider the interim measures imposed and renew, revise, or revoke any or all of the measures, or impose additional interim measures.
- g. Interim measures will be re-evaluated when a complaint process is concluded.

4. PROCEDURES TO ADDRESS COMPLAINTS

- a. Complaints of sexual violence will be resolved according to the procedures set out in the University's agreements with the Association of Academic Staff: University of Alberta (AASUA), the Non-Academic Staff Association (NASA), the *Graduate Student Assistantship Collective Agreement*, the *Postdoctoral Fellows Discipline Procedure*, the *Code of Student Behaviour*, the *Residence Agreement*, *Practicum Intervention Policy*, and any other applicable contracts, agreements or policies.
- b. In all cases, use of the procedures at the University does not preclude a report to the appropriate law enforcement agency, professional governing body, or pursuing any other civil or other remedy available at law.

Students

- c. Complaints of sexual violence against students will be addressed using procedures outlined in one or more of the following documents. When the person accused in the complaint is:
 - i. a student, the *Code of Student Behaviour*,
 - ii. a student living in a University Residence, the *Breach of Residence Agreement* process,
 - iii. a student in a practicum placement, the *Practicum Intervention Policy*;
 - iv. a graduate student while appointed in a role as a graduate teaching assistant, graduate research assistant or short-term academically-related employment at the time of the offence, the *Graduate Student Assistantship Collective Agreement*.

As noted, students may be subject to more than one procedure and may, therefore, be subject to several procedures concurrently.

Employees, postdoctoral fellows and volunteers

- d. Complaints of sexual violence against employees, postdoctoral fellows and volunteers will be resolved through the following procedures. When the person accused in the complaint is:
 - i. a member of the Non Academic Staff Association (NASA), the processes outlined in the collective agreement between the University and NASA;
 - ii. or the Association of Academic Staff: University of Alberta (AASUA), the processes outlined in the applicable collective agreement between the University and AASUA;
 - iii. a postdoctoral fellow, the *Postdoctoral Fellows Discipline Procedure*;
 - iv. an employee under an employment contract or agreement, but not subject to the above collective agreements or Procedure, where no policy or procedure exists and where no procedures are specified in the terms and conditions of their employment, the procedure will be determined on a case-by-case basis, ensuring that the accused person has the right to:
 1. an impartial decision-maker,
 2. know the case to be met,
 3. an opportunity to respond to the allegations in the complaint,
 4. be accompanied by an advisor, and
 5. a timely resolution.

Others

- e. When the person accused in a complaint or disclosure is any other person, the University may address the matter through means including, but not limited to, the *Trespass to Premises Act* of Alberta or the *Petty Trespass Act* of Alberta, reports to the appropriate law enforcement agency or professional governing body.

5. COMPLAINANT RIGHTS IN COMPLAINTS PROCESS

- a. The applicable procedures for investigating and adjudicating complaints of sexual violence are required to adhere to the principles of procedural fairness. Adherence to such principles is necessary to ensure that persons accused of sexual violence are protected by receiving a fair adjudication. At the same time, the procedures for investigating and adjudicating complaints of sexual violence must also be conducted with due regard to their effects on the complainant. Having such regard is necessary in recognition that investigatory

and adjudicative processes can themselves cause additional trauma to a complainant. In balancing these obligations, investigators and adjudicators will be mindful to conduct their functions in a way that reduces, to the extent possible, the risk of additional harm to the complainant, while ensuring procedural fairness for the person accused in the complaint.

- b. Without limiting the foregoing, but subject to the provisions of any applicable collective agreement, the complainant will have the right to:
 - i. be accompanied by a support person throughout their participation in any investigatory or disciplinary proceedings,
 - ii. be informed of, make and respond to procedural requests,
 - iii. make oral or written representations on their own behalf, through their support person or other appropriate party, regarding impact and sanction,
 - iv. receive a copy of the written reasons for the decision.

6. PREVENTION, EDUCATION AND TRAINING

- a. Further information about:
 - receiving and managing a disclosure of sexual violence, can be found in the University's *Responding to a Disclosure of Sexual Assault*, available at <https://www.ualberta.ca/current-students/sexual-assault-centre/responding>
 - support services and resources for persons affected by sexual violence can be found in the University's *Options, Services and Resources for Those who have Experienced Sexual Violence Information Document*.
 - the steps or measures the University can take, including modifications to academic program(s), University residence, recreational or other programs, or work environment, in response to a disclosure of sexual violence can be found in the University's *Options, Services and Resources for Those who have Experienced Sexual Violence Information Document*.
- b. The University will provide education to the entire University community on sexual violence including, but not limited to, policy awareness, **consent** and responding to disclosures.
 - i. Additional workshops will be offered for those more likely to receive disclosures.
 - ii. Training in bystander intervention, provided on a voluntary basis to students and staff.
- c. All persons (i) investigating complaints of sexual violence, and (ii) adjudicating complaints of sexual violence in the complaint resolution procedures outlined above must have appropriate training.
- d. Information on appropriate training can be found in the University's *Sexual Violence Education and Training Information Document*.

DEFINITIONS

Definitions should be listed in the sequence they occur in the document (i.e. not alphabetical).

Any definitions listed in the following table apply to this document only with no implied or intended institution-wide use. [▲Top](#)

University community	Includes all academic staff and colleagues, administrators and support staff as outlined and defined in <i>Recruitment Policy</i> (Appendix A and Appendix B) as well as third party contractors, visiting speakers, volunteers, professors emeriti, undergraduate students, graduate students, postdoctoral fellows and visitors to campus.
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Disclose/Disclosure	A verbal or written report or account by any person to a member of the University community that they have experienced sexual violence.
Complaint	Usually a written report or statement alleging sexual violence misconduct made to a University official under a University process for the purpose of initiating an investigation and resolution process.
Sexual violence	<p>Any sexual act or act of a sexual nature, or act targeting sexuality, whether physical or psychological, committed without consent. This includes, but is not limited to the following:</p> <ol style="list-style-type: none"> a. Sexual Assault - Any form of sexual contact without consent. This can include unwanted or forced kissing, fondling, vaginal or anal penetration or touching, or oral sexual contact. b. Sexual Harassment - as defined in the UAPPOL <i>Discrimination, Harassment and Duty to Accommodate Policy</i>. c. Stalking - Repeated unwanted contact or communication directed at another person that causes reasonable fear or concern for that person's safety or the safety of others known to them. The harm may be physical, emotional, or psychological, or related to the personal safety, property, education, or employment of an individual. Stalking can occur physically (such as watching and monitoring, pursuing or following, making threatening or obscene gestures, sending unsolicited gifts), electronically (for example, continuously commenting or contacting via social media, surveillance, letters, text messages, emails or phone calls), and/or through a third party. d. Indecent Exposure - Exposing one's genitals, buttocks and/or breasts or inducing another to expose their own genitals, buttocks and/or breasts in non-consensual circumstances, in person or electronically. e. Voyeurism - Surreptitiously observing and/or recording another individual's full or partial nudity or sexual activity without the knowledge and consent of all parties involved. f. Distribution of Intimate Images - Includes showing, sharing, distributing or streaming of images, video or audio recording of a sexual activity or full or partial nudity of oneself or other members of the University community, without the consent of all the recipient(s) and/or other member(s) of the University community who is/are the subject of the image or recording, or the threat to do the same. g. Inducing intoxication, impairment or incapacity for the purpose of making another person vulnerable to non-consensual sexual activity. h. Other analogous conduct.

Interim measures	<p>Non-disciplinary conditions that the University may impose on a person alleged to have committed sexual violence. Such conditions may be imposed in response to a disclosure or complaint. The purposes of interim measures are to ensure the safety of the person who disclosed or of the University's learning, working and University residence environment, to discourage or prevent retaliation, prevent further sexual violence and/or preserve the University's ability to conduct a thorough investigation. They are not considered sanctions under any University complaint process and in any complaint process, are without prejudice to the person against whom a complaint is made.</p>
Modifications	<p>Adjustments the University may be able to make at the request of a person who has made a disclosure or complaint of sexual violence. The modifications may relate to their academic program, employment, University residence or recreational or other programs.</p>
Retaliation	<p>Taking, attempting to take or threatening to take any adverse action or retribution of any kind against anyone involved in a sexual violence process including the person who made a disclosure or complaint, and anyone involved in an investigation or resolution of an allegation of sexual violence, or friends or family members of the same.</p> <p>Retaliation can take many forms, including threats, intimidation, pressuring, harassment, continued abuse, violence or other forms or threats of harm to others, and in varying modes, including in person and in electronic communication or through third parties. Retaliation can also include adverse employment or educational actions made or taken against an individual because of participation in the reporting, investigating and/or resolution of an alleged violation of this policy, or any conduct that would discourage a person from engaging in the same.</p>
Consent	<p>Consent is a voluntary, ongoing, active and conscious agreement to engage in the sexual activity in question. Consent or a "yes" that is obtained through pressure, coercion, force, threats or by inducing intoxication, impairment or incapacity is not voluntary consent. Silence or ambiguity do not constitute consent.</p> <p>Additionally, there is no consent when:</p> <ul style="list-style-type: none"> • it is given by someone else. • the person is unconscious, sleeping, highly intoxicated or high, or otherwise lacks the capacity to consent. • it was obtained through the abuse of a position of power, trust or authority. • the person does not signify "yes", says "no" or implies "no" through words or behaviours. • the person changes their mind and withdraws their consent. <p>Consent cannot be implied (for example, by a current or past relationship, by consent to another activity, or by failure to say "no" or resist). In addition, consent cannot be given in advance of sexual activity that is expected to occur at a later time. It is the responsibility of the person wanting to engage in sexual activity to obtain clear consent from the other and to recognize that consent can be withdrawn at any time.</p>

FORMS

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No Forms for this Procedure.

RELATED LINKS

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Supports and Resources

[Association of Academic Staff, University of Alberta \(AASUA\)](#) (University of Alberta)
[Community Social Work Team](#) (University of Alberta)
[Counselling and Clinical Services](#) (University of Alberta)
[Employee Family Assistance Program](#) (University of Alberta)
[Faculty of Graduate Studies and Research](#) (University of Alberta)
[Graduate Students' Association](#) (University of Alberta)
[Human Resource Services](#) (University of Alberta)
[Interfaith Chaplains' Association](#) (University of Alberta)
[the Landing](#) (University of Alberta)
[Non Academic Staff Association \(NASA\)](#) (University of Alberta)
[Office of the Dean of Students](#) (University of Alberta)
[Office of Safe Disclosure and Human Rights](#) (University of Alberta)
[Office of the Student Ombuds](#) (University of Alberta)
[Peer Support Centre](#) (Students' Union)
[Postdoctoral Fellows Association](#) (University of Alberta)
[Protocol for Urgent Cases of Violent, Threatening or Disruptive Behaviour](#) (University of Alberta)
[Sexual Assault Centre](#) (University)
[Sexual Assault Centre of Edmonton: <https://www.sace.ab.ca/>](#)
[Students' Union](#) (University of Alberta)
[University of Alberta Protective Services](#) (University of Alberta)

Information

[Options, Resources and Services for those who have Experienced Sexual Violence Information Document](#) (UAPPOL)
[Sexual Violence Interim Measures Information Document](#) (UAPPOL)
[Sexual Violence Education and Training Information Document](#) (UAPPOL)
[Options for Survivors of Sexual Assault](#) (Sexual Assault Centre, University of Alberta)
[Responding to a Disclosure of Sexual Assault](#) (University of Alberta)
[Review of the University of Alberta's Response to Sexual Assault](#)

Complaint mechanisms

[Faculty Agreement](#) (University of Alberta)
[Librarian Agreement](#) (University of Alberta)
[Administrative and Professional Officer Agreement](#) (University of Alberta)
[Code of Student Behaviour](#) (University of Alberta)
[Community Standards Policy for University Residences](#) (University of Alberta)
[Contract Academic Staff: Teaching Agreement](#) (University of Alberta)
[Faculty Service Officer Agreement](#) (University of Alberta)
[Graduate Student Assistantship Collective Agreement](#) (University of Alberta)
[NASA Collective Agreement](#) (University of Alberta)
[Postdoctoral Fellows Policy](#) (University of Alberta)
[Sessional and Other Temporary Staff \(SOTS\) Agreement](#) (University of Alberta)
[Trust/Research Academic Staff \(TRAS\) Agreement](#) (University of Alberta)

Related policies

[Access to Information and Protection of Privacy Policy](#) (University of Alberta)
[Discrimination, Harassment and Duty to Accommodate Policy](#) (University of Alberta)



U of A Policies and Procedures On-Line (UAPPOL)

[Ethical Conduct and Safe Disclosure Policy](#) (University of Alberta)

[Helping Individuals At Risk Policy](#) (University of Alberta)

[Protocol for Urgent Cases of Violent, Threatening or Disruptive Behaviour](#) (University of Alberta)

[Conflict Policy – Conflict of Interest and Commitment and Institutional Conflict](#) (University of Alberta)