

1.0 ASSOCIATED POLICY

- Sexual Violence Policy

2.0 DEFINITIONS

Complainant

A person who files a Complaint against a Respondent.

Complaint

A report of Sexual Violence submitted to the University in accordance with this procedure and the Sexual Violence Policy.

Disclosure

When someone chooses to inform a Member of the University Community about an incident where they were subjected to Sexual Violence.

Faculty

A member of the Faculty Association of Grant MacEwan University.

Investigation Owner

The individual responsible for leading and/or overseeing an investigation.

Interim Measures

Non-disciplinary actions taken during an investigation or proceeding in accordance with processes outlined in a collective agreement, if applicable, to ensure the safety of the Complainant or of the University's learning, working and residence environment, to discourage or prevent retaliation, and preserve the University's ability to conduct a thorough investigation. Interim Measures may include that there is to be no contact between a Complainant and a Respondent, and/or that the Respondent may be removed from classes, the workplace or residence pending the conclusion of an investigation.

Members of the University Community

Those persons involved in conducting University affairs including all registered students, Faculty, Staff, volunteers, contractors, and the University Board of Governors.

Modification

Making reasonable changes to certain rules, standards, policies, workplace cultures and physical environments to ensure that they do not have a negative effect on a person involved in a Disclosure or Complaint of Sexual Violence. These changes may include Interim Measures while an investigation is ongoing.

Reporter

An individual who files a Complaint, but who is neither a Survivor nor Respondent.

Respondent

A Member of the University Community against whom a Complaint has been filed in accordance with this procedure and the Sexual Violence Policy.

Retaliation

Taking any adverse action or making a threat of an adverse action against a Member of the University Community because that person has made a Disclosure or filed a Complaint, supported a Disclosure or filing of a Complaint, disclosed information to the University about a Disclosure or Complaint, participated in an investigation of a Disclosure or Complaint, and/or pursued their rights under this policy or applicable legislation.

Sexual Violence

Any sexualized act or act targeting a person’s sexuality that is committed, threatened, or attempted against a person without that person’s consent. Sexual Violence varies in severity, can be physical or psychological in nature, and may include but is not limited to all forms of sexual contact, sexual humiliation, sexual exploitation, degrading sexual imagery, sending unwanted sexualized text messages, cyber harassment, indecent or sexualized exposure via electronic or social media or otherwise, Sexual Harassment, Sexual and Gender Discrimination, Stalking, and Sexual Assault.

Sexual Violence Response Team

The group of University employees responsible for overseeing the University’s response to Sexual Violence.

Staff

An individual employed by the University who is not Faculty, including members of the MacEwan Staff Association and employees not included within the scope of either the MacEwan Staff Association or the Faculty Association of Grant MacEwan University.

Survivor

A Member of the University Community who has been subjected to Sexual Violence and who may or may not file a Complaint.

Trauma-Informed

Practices or approaches that recognize traumatic life experiences, including intergenerational trauma, can create significant change and turmoil within a person and in their life, and are complex and far-reaching, leading to various consequences to mental health, stability, and well-being.

3.0 PROCEDURE ELEMENTS

3.1 Reporting

- 3.1.1 After experiencing, witnessing or becoming aware of an incident of Sexual Violence, a Survivor, Complainant, or Reporter has the option of making a Disclosure, filing a Complaint under the Sexual Violence Policy and/or pursuing a criminal report. A Survivor, Complainant, or Reporter can make a Complaint at any time, including after they have made a Disclosure.
- 3.1.2 A Member of the University Community may make a Disclosure at any time after an incident of Sexual Violence. Survivors are encouraged to make a Disclosure to whomever they are most comfortable. This may include their direct supervisor, their instructor, the Grant MacEwan University Faculty Association or the MacEwan Staff Association for bargaining unit members, or to the following MacEwan resources, which have a specific mandate to receive disclosures:

- 3.1.2.1 Sexual Violence Response Coordinator;
- 3.1.2.2 Student Affairs - Wellness and Psychological Services;
- 3.1.2.3 Sexual Violence Prevention and Education Coordinator;
- 3.1.3 A Member of the University Community may file a Complaint at any time after an incident of Sexual Violence to any of the following:
 - 3.1.3.1 Sexual Violence Response Coordinator;
 - 3.1.3.2 Security Services;
 - 3.1.3.3 Human Resources;
 - 3.1.3.4 Student Conduct Officer;
 - 3.1.3.5 Sexual Violence Response Team; or
 - 3.1.3.6 via Confidence Line.
- 3.1.4 The Office of Sexual Violence Prevention, Education and Response will maintain up-to-date contact information for individuals trained to receive both Disclosures and Complaints on its website.
- 3.1.5 The University will review all Complaints regardless of when the Sexual Violence occurred. To conduct an effective investigation, the University encourages Reporters and Complainants to file a Complaint soon after the occurrence of Sexual Violence. Delay in filing a Complaint may impede the University's ability to conduct an investigation or take appropriate action.
- 3.1.6 Where there is a need for an immediate response to safety threats or medical emergencies, the responding Member of the University Community will assist the Survivor in contacting University Security Services or local law enforcement.
- 3.1.7 A criminal report may be pursued by a Survivor at any time even if non-criminal options are also being pursued.
- 3.1.8 While Survivors and Reporters are able to make anonymous Disclosures and Complaints through Confidence Line or other means, the University may be limited in its ability to respond due to available information. In all cases, the Sexual Violence Response Team will review and document the Disclosure or Complaint and ensure supports are offered.

3.2 Responding to Disclosures

- 3.2.1 A Member of the University Community responding to a Disclosure will:
 - 3.2.1.1 Refer the Survivor or the individual making a Disclosure to appropriate support services if desired;
 - 3.2.1.2 Inform Security Services if they believe that there is an imminent or ongoing risk to the safety and well-being of an individual or Members of the University Community; and
 - 3.2.1.3 Not Retaliate or take disciplinary action against an individual relating to an incident of Sexual Violence.
- 3.2.2. Members of the University Community responding to Disclosures are encouraged to consult with the Sexual Violence Response Coordinator if they have questions about how to respond, wish to debrief or receive support after receiving a Disclosure, or have concerns about the safety or well-being of an individual(s).

- 3.2.3 The University will provide all Survivors and Reporters who are registered students, Staff, or Faculty with the following supports:
 - 3.2.3.1 Trauma-Informed counselling and related support through Wellness and Psychological Services for students, or applicable employment benefits for Faculty and Staff;
 - 3.2.3.2 Modification options through the Sexual Violence Response Coordinator, Wellness and Psychological Services, the Associate Vice-President, Students, or Human Resources, as appropriate;
 - 3.2.3.2.1 When exams are deferred as part of a Modification, any fees associated with the deferral will be waived.
 - 3.2.3.3 Referrals to medical care;
 - 3.2.3.4 Reporting options;
 - 3.2.3.5 Support and advocacy from the Grant MacEwan University Faculty Association or MacEwan Staff Association for bargaining unit members; and/or
 - 3.2.3.6 Referrals to community agencies that provide medical, counselling, law enforcement, legal and/or other appropriate services.
- 3.2.4. Survivors and Reporters who are not registered students, Staff, or Faculty will be provided with referrals to community agencies that provide medical, counselling, legal, law enforcement and/or other appropriate services.
- 3.2.5 Survivors who choose to make a Disclosure have the continuing ability to make a Complaint in the future if they decide to do so.
- 3.2.6 Security Services will immediately notify the Sexual Violence Response Team and the Sexual Violence Response Coordinator on becoming aware of a Disclosure.
- 3.2.7 The Sexual Violence Response Coordinator will immediately notify the Sexual Violence Response Team on becoming aware of a Disclosure in which there is a duty to disclose information. If it is unclear whether there exists a duty to inform, or other obligation to disclose information, the Sexual Violence Response Coordinator will first consult with the Chair of the Sexual Violence Response Team prior to notification of the Sexual Violence Response Team.
- 3.2.8 The Sexual Violence Response Team may, without the permission of the Survivor, act or continue to act on a Complaint or a Disclosure where an investigation is needed to comply with the University's legal obligations, or the safety of other Members of the University Community or the external community is at risk.

3.3 Responding to Complaints

- 3.3.1 The Sexual Violence Response Coordinator, Human Resources representative, Student Affairs representative, Security Services representative, or Confidence Line designate will refer the Complainant or the Reporter to appropriate support services, if desired.
- 3.3.2 The University will provide all registered students, Staff, and Faculty who are Respondents, Complainants, Reporters or Survivors, with the following supports:
 - 3.3.2.1 Trauma-Informed counselling and related support through Wellness and Psychological Services for students, or applicable employment benefits for Faculty and Staff;

- 3.3.2.2 Modification options through the Sexual Violence Response Coordinator, Wellness and Psychological Services, the Associate Vice-President, Students, or Human Resources, as appropriate, including:
 - 3.3.2.2.1 Waiver of associated fees when exams are deferred as part of a Modification;
 - 3.3.2.3 Referrals to medical care;
 - 3.3.2.4 Reporting options;
 - 3.3.2.5 Support and advocacy from the Grant MacEwan University Faculty Association or MacEwan Staff Association for bargaining unit members; and/or
 - 3.3.2.6 Referrals to community agencies that provide medical, counselling, law enforcement, legal and/or other appropriate services.
- 3.3.3 Survivors and Reporters who are not registered students, Staff, or Faculty will be provided with referrals to community agencies that provide medical, counselling, legal, law enforcement and/or other appropriate services.
- 3.3.4 Individuals who receive a Complaint will, within 24 hours of receiving a Complaint, contact the Sexual Violence Response Team and provide all relevant information about the Complaint.
- 3.3.5 The Sexual Violence Response Team will communicate about a Complaint, no later than 3 business days after becoming aware of a Complaint, to:
- 3.3.5.1 coordinate referrals to support services for each of the Complainant, Respondent, Reporter, and other persons involved in the Complaint review and investigation processes.
 - 3.3.5.2 determine whether an investigation should be recommended based on the matters described in the Complaint by considering whether the Complaint is within the scope of the University's ability to investigate;
 - 3.3.5.3 impose or facilitate Interim Measures;
 - 3.3.5.4 determine the appropriate Investigation Owner and provide all necessary information to the Investigation Owner; and
 - 3.3.5.5 determine what limits need to be placed on personal information during the management and investigation of the Complaint, which will be done through consultation with the General Counsel or designate.
- 3.3.6 If, after assessing the information with respect to a Complaint, the Sexual Violence Response Team determines that an investigation is not recommended, the Sexual Violence Response Team will document the rationale for not recommending an investigation and, through the individual who received the Complaint, will advise the Complainant of the reasons for not doing so.

- 3.3.7 In the event an investigation of a Complaint is required, the Sexual Violence Response Team will recommend the appointment of an appropriate investigator(s) to the Investigation Owner as soon as possible after receipt of the Complaint by the Sexual Violence Response Team. The investigator(s) may be an employee of the University or an external person and may include members of the Sexual Violence Response Team. Best efforts will be made to ensure that the investigator(s) are trained in current best practices in Trauma-Informed interviewing and investigations. Investigations must be conducted in accordance with the applicable University investigations standards, the Grant MacEwan University Faculty Association Collective Agreement and MacEwan Staff Association Collective Agreement, where applicable.
- 3.3.8 University Investigations will be conducted in a manner which has regard for procedural fairness, which includes:
- 3.3.8.1 Both the Complainant and the Respondent have the right to have a support person present during the investigation process. Such support persons may be present with the party but may not advocate on the party's behalf or otherwise intervene in such a fashion as to interfere with the collection of objective and accurate information which could undermine the conduct of an unbiased, objective investigation.
 - 3.3.8.2 Complainants or Respondents who are members of the MacEwan Staff Association or the Grant MacEwan University Faculty Association have the right to representation by their bargaining unit. Out-of-scope employees may request support from another employee or a Human Resources representative.
 - 3.3.8.3 The Respondent will be provided with sufficient details of the Complaint to understand the allegations being made against them.
 - 3.3.8.4 The investigation will be conducted as outlined in applicable University investigation standards, which outline the process and timelines for MacEwan investigations.
 - 3.3.8.5 The Complainant and the Respondent will be notified when the investigation is complete.
- 3.3.9 Investigations will be conducted in an objective, systematic, and discreet manner and will:
- 3.3.9.1 obtain informed consent from all witnesses, including the Complainant and the Respondent, detailing how the witness statement will be used;
 - 3.3.9.2 compile information relating to the Complaint as quickly as possible (including, if applicable, taking steps to protect or preserve documents, materials and other evidence);
 - 3.3.9.3 consider the information collected and present all findings objectively and impartially; and
 - 3.3.9.4 maintain procedural fairness in the treatment of witnesses, the Complainant and the Respondent.
- 3.3.10 The investigator will provide the Investigation Owner with a written investigation report. The report will include:
- 3.3.10.1 all relevant facts and accompanying analysis;
 - 3.3.10.2 witness statements;

- 3.3.10.3 objective findings and information that inform reasonable conclusions relating to the occurrence of any event and/or the credibility of any witness within the investigation;
 - 3.3.10.4 description of any Interim Measures instituted;
 - 3.3.10.5 investigation findings with supporting evidence;
 - 3.3.10.6 assessment of whether or not a policy breach may be sustained; and
 - 3.3.10.7 a recommendation of whether sanctions or disciplinary measures are warranted, if specifically requested by the Investigation Owner.
- 3.3.11 Subject to any limitations regarding the need to maintain confidentiality or privacy in accordance with the Sexual Violence Policy, this procedure or applicable laws, following the conclusion of an investigation, the University will share the outcome of the investigation with the Complainant and the Respondent.
- 3.3.12 On receiving the written investigation report, the Investigation Owner will:
- 3.3.12.1 Provide copies of reports as requested to the Sexual Violence Response Team and indicate whether or not there were any outcome actions;
 - 3.3.12.2 Provide a summary of the results of the investigation to the Respondent and the Complainant; and
 - 3.3.12.3 Close the investigation.

3.4 Confidentiality

- 3.4.1 To the extent possible, the confidentiality and privacy of all persons involved in a report of Sexual Violence must be strictly observed from the outset of a Disclosure or Complaint being received through to the end of the investigation process and outcome.
- 3.4.2 The Sexual Violence Response Team and investigators appointed to investigate Complaints are authorized to collect, use, or disclose personal information and any other information that is considered necessary to manage and investigate Complaints or respond to Disclosures when there may be a risk to the safety of an individual or Members of the University Community.
- 3.4.3 The details and results of an investigation will not be disclosed or discussed with any person other than the Complainant, the Respondent, and those Members of the University Community where it is reasonable and necessary for the performance of their duties and responsibilities, or where required to fulfill other legal or contractual obligations. However, the Chair of the Sexual Violence Response Team may at any time report information in relation to any Complaint, investigation or investigation outcome to senior administration, the University Board of Governors, University solicitors and/or law enforcement agencies, if deemed appropriate, or otherwise when required by law.
- 3.4.4 The General Counsel may impose a legal hold on all records relating to a Complaint in accordance with the University's Legal Hold Procedure. Records will be retained in accordance with the University's Records Management Policy

3.5 Conflicts of Interest

3.5.1 Members of the investigation team and persons involved with the assessment and review of the Complaint will not, to the extent possible, include any individuals who have a potential, perceived or real conflict of interest in the matter or persons involved in the Complaint. The Sexual Violence Response Team will recommend the appointment of appropriate persons to conduct the investigation in order to avoid a conflict of interest.

3.6 Sexual Violence Response Team Reporting

3.6.1 On a quarterly basis, the Chair of the Sexual Violence Response Team will prepare a summary report of all Sexual Violence investigations held during the relevant time period for review by senior administration.

4.0 RELATED POLICIES, PROCEDURES, FORMS AND OTHER DOCUMENTS

- Code of Conduct – Employees
- Faculty Association of Grant MacEwan University Collective Agreement
- Harassment and Violence Policy
- Health, Safety, and Environment Policy
- Human Rights and Accessibility Policy
- Legal Hold Procedure
- MacEwan Staff Association Collective Agreement
- Records Management Policy
- Respectful Workplace Policy
- Safe Disclosure Policy
- Safe Disclosure Reporting Procedure
- Student Non-Academic Misconduct Policy
- Student Non-Academic Misconduct Procedure

5.0 ACCOUNTABILITY

Responsible Office

Associate Vice-President, Students

6.0 HISTORY

Relevant Dates

Approved: **22.02.01**

Effective: **22.02.01**

Next Review: **27.02**

Modification History

- 15.09.24:** New Procedure. Approved by President's Policy Committee on June 15, 2015.
- 18.11.19:** Comprehensively revised. Approved by President's Policy Committee on November 19, 2018.
- 22.02.01:** Comprehensively revised. Approved by President's Policy Committee on February 1, 2022.
- 22.11.16:** Minor revision to update definitions and titles, as well as to clarify language. Approved by Policy Sponsor.