

1.0 POLICY STATEMENT

- 1.1 MacEwan University (the “University”) is committed to promoting and maintaining an educational and working environment free from all forms of Sexual and Gender-Based Violence, supporting equitable relations, and fostering a community founded upon the fundamental dignity and worth of all its members. The University recognizes that Sexual and Gender-Based Violence affects all people, regardless of identity or relationship status. The University is committed to providing support for all Members of the University Community who have been impacted by Sexual and Gender-Based Violence and addressing Sexual and Gender-Based Violence through Anti-Oppressive and Trauma-Informed practices. The University prohibits all acts of Sexual and Gender-Based Violence; therefore, it is the responsibility of all Members of the University Community to promote an environment that is free of Sexual and Gender-Based Violence and to be knowledgeable about this policy and associated procedures.

2.0 PURPOSE

- 2.1 The University recognizes that efforts to foster equity and safety along the lines of sex, gender identity, gender expression, race, ethnicity, sexuality, disability, socio-economic status, and religious beliefs are the best tools for eliminating Sexual and Gender-Based Violence. The University’s strategies to address Sexual and Gender-Based Violence must be linked to broader equity and anti-discrimination initiatives and goals. This policy communicates the University’s commitment to these goals and establishes the principles and procedures that support this commitment.
- 2.2 This policy outlines the provision of support for Members of the University Community impacted by Sexual and Gender-Based Violence and informs Members of the University Community about behavioural expectations so that incidents of Sexual and Gender-Based Violence are dealt with efficiently, effectively, and fairly.

3.0 APPLICABILITY

- 3.1 This policy applies:
- i. to all Members of the University Community;
 - ii. to risks, threats and incidents of Sexual and Gender-Based Violence that occur on University premises and other work, study, social, recreational and living sites under the University’s control, during the course of any University-sponsored event or activity, and in University-controlled virtual environments such as electronic or social media; and
 - iii. to conduct that does not occur on University premises, but where the conduct or the persons involved have an identifiable and substantial link to the University, or the occurrence affects the University working, learning or living environment.

4.0 DEFINITIONS

Anti-Oppressive

Anti-Oppressive practice seeks to recognize oppression – the socially supported system of mistreatment and exploitation of a group of individuals – that exists in our society and attempts to mitigate its effects and equalize power imbalances in our communities.

Complainant

A person who files a Complaint against a Respondent.

Complaint

A report of Sexual or Gender-Based Violence submitted to the University in accordance with this policy and the Responding to Sexual and Gender-Based Violence Procedure, for the express purpose of initiating a formal University investigation.

Consent

A clear, voluntary, ongoing, and conscious agreement to engage in a sexual activity or interaction. Consent must be freely given and actively communicated through words and/or behaviour throughout a sexual experience. Consent can be withdrawn at any time.

There is no consent if someone uses force or coercion to obtain an individual's 'yes' or their submission to sexual activity. Coercion includes pressure, threats, intimidation, abuse of power, and inducing intoxication, impairment, or incapacity. Silence or ambiguity do not constitute consent.

Additionally, as per the Criminal Code of Canada, there is no consent when:

- A person says 'yes' on behalf of another individual;
- A person does not communicate yes, or communicates or implies no through their words, body language, and/or behaviour;
- A person is asleep, unconscious, incapacitated, unable to communicate, or otherwise unable to consent;
- A person is impaired by alcohol and/or drugs;
- A person uses a position of power, trust, or authority to coerce another into sexual activity;
- A person changes their mind and withdraws their Consent, at any time, before or during the course of a sexual encounter.

Consent cannot be implied (for example, by a current or past relationship, by clothing or attire, by consent to another activity, or by not explicitly saying 'no' or resisting). In addition, consent cannot be given in advance of sexual activity that is expected to occur at a later time. Every individual has the responsibility to obtain clear consent from another before initiating a sexual interaction and to ensure that consent is present throughout sexual activity. There is no consent if one individual misleads another in relation to sexual health risks (e.g., removing a barrier without consent or lying about sexually transmitted infection status).

Disclosure

When someone chooses to inform a Member of the University Community about an incident of Sexual or Gender-Based Violence, often for the purpose of seeking support or assistance.

Faculty

A member of the Grant MacEwan University Faculty Association.

Gender-Based Violence

Any form of violence, discrimination, harassment or abuse based on gender norms and unequal power dynamics, perpetrated against someone based on their actual or perceived sex, gender identity, gender expression, or sexual orientation, including without limitation, all forms of Sexual Violence as well as Intimate Partner Violence.

Image-Based Sexual Abuse

The creation, theft, extortion, threatened or actual distribution, or any use of sexualized or sexually explicit materials without the consent of the person depicted, including but not limited to:

- Non-consensual recording of sexually explicit or sexualized images or videos;
- Non-consensual distribution of sexually explicit or sexualized images or videos;
- Using sexually explicit or sexualized images or videos for the purpose of blackmail or to coerce the production of additional sexually explicit or sexualized content;
- Non-consensual use of a person's image or likeness for the creation of sexually explicit or sexualized images, videos, or other materials, using artificial intelligence or other technology.
- Pressuring or coercing an individual to create or share sexually explicit or sexualized images or videos.

Indecent Exposure

Exposing one's genitals, buttocks, and/or breasts in non-consensual circumstances, in-person, electronically, or otherwise.

Interim Measures

Non-disciplinary actions taken during an investigation or proceeding in accordance with processes outlined in University policies, procedures, or collective agreements, if applicable, to ensure the safety of the Complainant, Survivor, Reporter, Respondent, 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 but are not limited to a requirement for no contact between a Complainant and a Respondent, and/or that the Respondent may be removed or restricted from classes, the workplace or residence pending the conclusion of an investigation.

Intimate Partner Violence

Any form of violence or abuse that occurs in a current or former romantic relationship, including dating relationships. Intimate Partner Violence includes any behaviour in a relationship that causes physical, psychological or sexual harm, and can be physical, emotional, psychological, financial, or sexual in nature.

Members of the University Community

Persons involved in conducting University affairs, including all Students, employees, volunteers, contractors, and members of the Board of Governors.

Modification

Making reasonable changes to certain rules, standards, policies, workplace cultures and physical environments to mitigate the impact of Sexual or Gender-Based Violence on a Survivor's ability to access and participate in the University learning, working and/or living environment. These changes may include Interim Measures while an investigation is ongoing.

Rape Culture

A culture in which dominant ideas, social practices, media images, and societal institutions implicitly or explicitly condone Sexual and Gender-Based Violence by normalizing or trivializing Sexual and Gender-Based Violence and by blaming Survivors for the abuse to which they have been subjected.

Reporter

An individual who makes a Disclosure or files a Complaint but is not the Survivor in the incident of Sexual and Gender-Based Violence being disclosed or reported.

Respondent

A Member of the University Community against whom a Complaint has been filed in accordance with this policy and associated procedures.

Retaliate

Taking actual or threatened adverse action against a Member of the University Community because that person has made a Disclosure or filed a Complaint, supported the making of 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.

Sexual Assault

Any form of sexual contact without Consent, whether intentional or unintentional, which can include but is not limited to unwanted or forced oral contact, groping or fondling, vaginal or anal penetration, and oral to genitalia contact.

Sexual Exploitation

The actual or attempted abuse of a position of vulnerability, differential power, or trust, for sexual purposes, including, but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another.

Sexual Harassment

Any unwelcome communication, conduct or attention, whether intentional or unintentional, that is offensive, intimidating or humiliating, and is sexualized in nature. Sexual Harassment takes place in many forms, including behavioural, verbal, written, visual, and digital.

Sexual Harassment is a form of discrimination based on gender identity, gender expression, and sexual orientation, and may include:

- Conduct that creates a negative psychological and emotional environment, where the unwelcome behaviour has the purpose and/or effect of interfering with an individual's full participation in the working or learning environment, negatively impacting an employee's work performance or a student's academic performance, and/or creating an intimidating, hostile, or offensive working or learning environment.
- Unwelcome sexual advances, requests for sexual favours, or other conduct of a sexual nature where submission to such conduct is made either explicitly or implicitly a term or condition of employment, or of the teaching and learning process; or where submission to or rejection of such conduct is used in employment or academic decisions affecting that employee or student.

Examples of sexually harassing behaviours include but are not limited to, comments or conduct of a sexual nature such as leering, sexualized jokes, gestures, exposure to pornographic pictures or materials, unwanted comments, suggestions, innuendos, requests or demands that are sexualized or discriminatory in nature. An individual's passivity, compliance, or lack of explicit objection to the unwelcome conduct does not signal their consent or that the behaviour was welcomed, especially where a power imbalance exists between the individuals.

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 Assault, Sexual Harassment, Stalking, Technology-Facilitated Sexual Violence, Image-Based Sexual Abuse, Sexual Exploitation, Indecent Exposure, Voyeurism and other analogous conduct.

Sexual Violence Response Team

The group of University employees responsible for overseeing the University's response to Sexual and Gender-Based Violence.

Staff

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

Stalking

A form of harassment involving persistent, unwanted communication, attention or conduct that causes an individual to fear for their personal safety or the safety of others, and/or to suffer substantial emotional and psychological distress.

Survivor

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

Technology-Facilitated Sexual Violence

A range of non-consensual, unwanted, harmful, sexualized behaviours that are carried out using technology through either individual or group conduct, and includes but is not limited to:.

- Digital harassment, including sending unwanted sexualized images or messages, impersonating someone online, sharing an individual's personal information online, hacking or tampering with an individual's online accounts, spreading rumours online, and persistent online communication;
- Cyberstalking, which refers to the use of technology to track, surveil, intimidate, threaten, sabotage, or interfere with an individual, causing them fear and disrupting their life;
- Image-Based Sexual Abuse; and
- Recording and/or distributing images or videos of sexual assault.

Trauma-Informed

An approach to process, procedure, and service provision that is rooted in an understanding of trauma, including intergenerational trauma, and its impacts on individuals and communities.

A trauma-informed approach (1) acknowledges the impacts of trauma on emotional, cognitive, physical, sexual, and relational well-being; (2) recognizes the potential effects of trauma on cognition, memory, and behaviour, and (3) takes preemptive steps to address the needs created by trauma, to facilitate recovery and empowerment, and to prevent retraumatization.

When applied to the University's response to Complaints of Sexual and Gender-Based Violence, a Trauma-Informed approach includes not requiring any meetings between the Survivor and the Respondent as part of an investigation, preventing re-victimization of the Survivor, ensuring all parties have access to support persons throughout, and ensuring transparency of process throughout the investigation.

Voyeurism

Covertly observing and/or recording another individual's full or partial nudity or sexual activity without the consent of all parties involved.

5.0 POLICY ELEMENTS

5.1 General Prohibitions and Responsibilities

- 5.1.1 The University will promote an environment free from Sexual and Gender-Based Violence and challenging the attitudes, beliefs, norms, and practices associated with Rape Culture.
- 5.1.2 The University will take action to prevent Sexual and Gender-Based Violence through education and communications and to promote the safety, well-being, and human rights of all Members of the University Community.
- 5.1.3 The University will provide Trauma-Informed response and support to Members of the University Community who have been impacted by Sexual or Gender-Based Violence.
- 5.1.4 No person, while on University premises or property, participating in a University-related event (on or off University premises or property), or acting as a Member of the University Community, may engage in any form of Sexual or Gender-Based Violence against another person.

5.2 Support Services and Modifications

- 5.2.1 All Members of the University Community who are impacted by Sexual and Gender-Based Violence are entitled to access University-provided support services, regardless of whether or not the Survivor files a Complaint. Support can include providing access to counselling, medical care, safety planning, Modifications, support from the Grant MacEwan University Faculty Association or MacEwan Staff Union for bargaining unit members, support from the Students' Association of MacEwan University for students, and accessing community services, including culturally-specific services where available.
- 5.2.2 Survivors, Complainants, Reporters, and Respondents who are not Members of the University Community will be provided referrals to external counselling, medical care, and other services where appropriate.

5.3 Education and Prevention

- 5.3.1 The University is committed to supporting ongoing education and awareness initiatives for Members of the University Community about Sexual and Gender-Based Violence, Sexual and Gender-Based Violence prevention and responding to Disclosures and Complaints of Sexual and Gender-Based Violence. The University will implement preventative strategies with respect to all forms of Sexual and Gender-Based Violence. These strategies will be Anti-Oppressive and linked to the University's broader equity and anti-discrimination initiatives and goals.
- 5.3.2 All Members of the University Community are responsible for contributing to the prevention of, intervention in, and effective response to, Sexual and Gender-Based Violence through compliance with this policy and associated procedures.

5.4 Responding to Sexual and Gender-Based Violence

- 5.4.1 The University will establish procedures to respond to incidents of Sexual and Gender-Based Violence and to support Survivors, Complainants, Reporters, Respondents, and Members of the University Community responding to Disclosures and Complaints.
- 5.4.2 The University will provide Members of the University Community with information and training on responding to Disclosures to ensure that Survivors receive appropriate support and information when making a Disclosure of Sexual or Gender-Based Violence.
- 5.4.3 The University will provide those who have experienced Sexual or Gender-Based Violence, or those who wish to explore their options for reporting Sexual and Gender-Based Violence, with comprehensive information about Disclosure and Complaint options.
- 5.4.4 The University will appoint and maintain a Sexual Violence Response Team which will be responsible for overseeing the University's response to Sexual and Gender-Based Violence.
- 5.4.5 The University will handle Complaints and investigations in a fair, effective, timely, Trauma-Informed and unbiased manner, and in accordance with the Investigation Framework.
- 5.4.6 The University will review all Complaints and strive to investigate Complaints to the fullest extent possible given the available information and scope of this policy.
- 5.4.7 A Survivor has the right to forego filing criminal charges or making a Complaint or to withdraw a Complaint at any stage of the process.
- 5.4.8 The University reserves the right to act or continue to act on a Complaint or a Disclosure or to inform law enforcement authorities of an incident of Sexual or Gender-Based Violence without the permission of the Survivor in order to comply with its obligations under this policy or its legal obligations, or if the University believes that the safety of other Members of the University Community or the external community is at risk. In these circumstances, the Survivor maintains the ability to participate or refuse to participate in an investigation led by the University. The University will make all reasonable efforts to minimize further distress to the Survivor.

5.5 Breaches of Policy

- 5.5.1 The standard of proof for the finding of a breach of this policy is on a balance of probabilities.
- 5.5.2 Any Member of the University Community who is found to have breached this policy will be held accountable and subject to sanctions and discipline as outlined within applicable University policy, collective agreements and applicable laws.

5.6 Confidentiality

- 5.6.1 All representatives of the University involved in responding to a Disclosure, Complaint and/or investigation of Sexual and Gender-Based Violence are expected to maintain confidentiality of information as required by law and University policy, and where

otherwise appropriate. The University treats Disclosures and Complaints as confidential, subject to the following limitations:

- 5.6.1.1 When an individual is at imminent risk of harming self and/or others;
 - 5.6.1.2 There are reasonable grounds to believe that Members of the University Community or wider community may be at risk of harm;
 - 5.6.1.3 In order to ensure fairness of process for all parties; or
 - 5.6.1.4 Where the disclosure of information, reporting and/or conducting an investigation is required by law, by University's policy, by an external body with lawful authority, or where disclosure is otherwise required by law.
- 5.6.2 Confidentiality is subject to the provisions of the *Protection of Privacy Act* and the *Access to Information Act* (Alberta), other legislation, collective agreements and University policy.

5.7 Retaliation and Good-Faith Complaints

- 5.7.1 It is contrary to this policy for anyone to Retaliate, or threaten to Retaliate against a Complainant, Reporter, Survivor, witness or any other person. Any Member of the University Community who undertakes, participates in, or directs a person to Retaliate may be subject to disciplinary action.
- 5.7.2 It is contrary to this policy for a Member of the University Community to take independent punitive action against a Respondent outside of an investigation or disciplinary action arising from an investigation. Such actions are subject to all applicable University conduct requirements. A breach of University conduct requirements may result in discipline under the applicable policy or collective agreement.
- 5.7.3 All Disclosures and Complaints must be in good faith. Disclosures or Complaints that are found to be in bad faith may result in disciplinary action. Disciplinary action will not apply where a Complaint has been made in good faith but cannot be substantiated or is found to be inconclusive.

5.8 Information Tracking and Retention of Records

- 5.8.1 The University will maintain information on the number of Complaints, the number and results of investigations and the corrective actions taken in response to recommendations arising out of investigations.
- 5.8.2 The Office of General Counsel is responsible for maintaining records related to Complaints including, without limitation, investigation reports and any alternative resolution process reports. Subject to any records retention obligations under University policy, collective agreements or applicable law, records related to discipline or sanctions arising out of Complaints will be maintained by the Human Resources department for employees and the Office of Student Affairs for students. .

- 5.8.3 Records will be maintained in accordance with the University's Records Retention and Disposition Schedule.
- 5.8.4 All records involving a Complainant and subsequent investigation of Complaints, but not including records related to discipline or sanctions arising out of Complaints, will be kept in a file separate from student academic records and/or employee personnel files; however, all such records may be used for purposes of future disciplinary processes.

6.0 ASSOCIATED PROCEDURES

- Responding to Sexual and Gender-Based Violence Procedure

7.0 RELATED POLICIES, FORMS, AND OTHER DOCUMENTS

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

8.0 ACCOUNTABILITY

Policy Sponsor

Provost & Vice-President, Academic

Vice-President, Finance and Administration & Chief Financial Officer

Responsible Office

Office of the Associate Vice-President, Student Experience & Development

Human Resources

9.0 HISTORY

Relevant Dates

Approved: **25.10.16**

Effective: **25.10.16**

Next Review: **30.10**

Modification History

15.09.24: New policy. Approved by Board Motion 03-09-24-2015/16.

18.12.13: Policy comprehensively revised. Approved by Board Motion 02-12-13-2018/19.

21.11.22: Minor revision to update Policy Sponsors and Responsible Offices. Approved by Policy Sponsors.

22.11.16: Minor revision to update definitions and titles, as well as to clarify language. Approved by Policy Sponsor.

25.10.16: Policy comprehensively revised, including title (formerly titled Sexual Violence). Approved by Board Motion #BOG-02-10-16-2025/26.