

## **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 Violence, supporting equitable relations, and fostering a community founded upon the fundamental dignity and worth of all its members. The University recognizes that Sexual 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 Violence and addressing Sexual Violence through Anti-Oppressive and Trauma-Informed practices. The University prohibits all acts of Sexual Violence; therefore, it is the responsibility of all Members of the University Community to promote an environment that is free of Sexual 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, ability, socio-economic status, spirituality, and religion are the best tools for eliminating Sexual Violence. The University’s strategies to address Sexual 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 Violence and informs Members of the University Community about behavioural expectations so that incidents of Sexual 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 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 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 Violence submitted to the University in accordance with this policy and the Responding to Sexual Violence Procedure.

**Consent**

The voluntary agreement to engage in specific sexual activity or behaviour requiring that a person is able to freely articulate a choice, which includes the possibility of refusal. This means that there must be an understandable and ongoing exchange of affirmative words or conduct which indicate a willingness to participate in mutually agreed upon sexual activity. For the purposes of this definition, there cannot be Consent to sexual activity in the following circumstances:

- 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 has been threatened or coerced (i.e., is not agreeing voluntarily) into engaging in the sexual activity;
- A person uses a position of trust, power, or authority to coerce another into sexual activity;
- A person is impaired by alcohol and/or drugs;
- A person withdraws Consent, at any time, before or during the course of a sexual encounter.

The fact that Consent was given in the past does not mean that Consent is deemed to exist for present and future sexual activity.

**Disclosure**

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

**First-Responder**

An individual to whom a Survivor initially discloses. This could be any Member of the University Community.

**Faculty**

A member of the Faculty Association of Grant MacEwan University.

**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.

**Primary Contact**

A representative of the University appointed to Complainants, Respondents, Reporters, and other persons involved in a Complaint or investigation process. The primary contact(s) will provide information to such persons, facilitate access to resources and services, coordinate and respond to communications from and to the University and external entities (including without limiting, police, academic areas and health care providers), and otherwise provide support to the participants as required under this policy and associated procedures.

**Rape Culture**

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

**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 policy and associated procedures.

**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 Assault**

Any sexual contact without Consent, which can include but is not limited to forced oral contact, forced groping or fondling, forced vaginal or anal penetration, and forced oral to genitalia contact. The behaviour need not be intentional in order to be considered Sexual Assault.

**Sexual and Gender Discrimination**

Discrimination based on sex, gender, sexual orientation, gender expression or gender identity.

**Sexual Harassment**

Unwelcome sexual advances, requests for sexual favours, or other verbal or physical conduct of a sexual nature. Incidents of sexual harassment include, but are not limited to, situations when:

- Such conduct has the purpose or effect of interfering with an employee's work performance or a student's academic performance, or creating an intimidating, hostile, or offensive working or learning environment;
- Submission to such conduct is made either explicitly or implicitly a term or condition of employment, or of the teaching and learning process; or

- 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, dirty jokes, gestures, exposure to pornographic pictures or materials, unwanted comments, suggestions, innuendos, requests or demands of a sexual nature. The behaviour need not be intentional in order to be considered Sexual Harassment.

### **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.

### **Stalking**

A form of criminal harassment prohibited by the *Criminal Code of Canada* involving persistent, unwanted communication and/or behaviours that collectively instill fear for the victim/target's safety or mental health.

### **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.

## **5.0 POLICY ELEMENTS**

### **5.1 General Prohibitions and Responsibilities**

- 5.1.1 The University will take measures aimed at promoting a University environment free from Sexual Violence and challenging the attitudes, beliefs, norms, and practices associated with Rape Culture.
- 5.1.2 The University will take action to prevent Sexual 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 Violence.
- 5.1.4 No person, while on University premises, participating in a University related event (on or off University premises), or acting as a Member of the University Community, may engage in any form of Sexual Violence against another person.

## **5.2 Support Services and Modifications**

- 5.2.1 All Members of the University Community who are impacted by Sexual 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 Faculty Association of Grant MacEwan University or MacEwan Staff Association for bargaining unit members, and accessing community services.
- 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 Violence, Sexual Violence prevention and responding to Disclosures and Complaints of Sexual Violence. The University will implement preventative strategies with respect to all forms of Sexual 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 Violence through compliance with this policy and associated procedures.

## **5.4 Responding to Sexual Violence**

- 5.4.1 The University will establish procedures to respond to incidents of Sexual Violence and to support Survivors, Complainants, Reporters, Respondents, and First-Responders.
- 5.4.2 The University will provide Members of the University Community with information and training on the role of a First-Responder to ensure that Survivors receive appropriate support and information when making a Disclosure of Sexual Violence.
- 5.4.3 The University will provide those who have experienced Sexual Violence, or those who wish to explore their options for reporting Sexual 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 Violence.

- 5.4.5 The University will handle Complaints and investigations in a fair, effective, timely, and unbiased manner.
- 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 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 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 to refuse to participate in an investigation led by the University.
- 5.4.9 Where the University initiates an internal investigation or informs law enforcement authorities of an incident of Sexual Violence, as required by law, without the permission of the Survivor, all reasonable efforts shall be made by the University 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 laws.

## 5.6 **Confidentiality**

- 5.6.1 All representatives of the University involved in responding to a Disclosure, Complaint and/or investigation of Sexual 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 promote fairness of process for all parties; or
  - 5.6.1.4 Disclosure of information, reporting and/or conducting an investigation is required by law, by the University's policies, or by an external body with appropriate authority.
- 5.6.2 Confidentiality is subject to the provisions of the *Freedom of Information and Protection of Privacy 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, bystander or any other person. Any Member of the University Community who undertakes, participates in, or directs a Retaliation may be subject to disciplinary action.
- 5.7.2 Actions taken by a Member of the University Community against a Respondent outside of an investigation or disciplinary action arising from an investigation 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.

## **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 the Associate Vice-President, Students 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 Violence Procedure

## **7.0 RELATED POLICIES, 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
- MacEwan Staff Association Collective Agreement
- Records Management Policy
- Respectful Workplace Policy
- Safe Disclosure Policy
- Student Non-Academic Misconduct Policy

## **8.0 ACCOUNTABILITY**

### **Policy Sponsor**

Provost and Vice-President, Academic  
Vice-President, Finance and Administration & Chief Financial Officer

### **Responsible Office**

Student Affairs  
Human Resources

## **9.0 HISTORY**

### **Relevant Dates**

Approved: **18.12.13**  
Effective: **18.12.13**  
Next Review: **23.12.13**

### **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.