

Procedures Relating to the Sexual Violence Policy

Procedural Authority: Vice-President Academic

Procedural Officer: Dean of Students

Parent Policy: AD1235 Sexual Violence Policy

Effective Date: November 27, 2015

Supersedes:

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PROCEDURES

1.0 PURPOSE

- 1.1 This document outlines the University's procedures for responding to Sexual Violence and is intended to inform Members of the University Community, as well as visitors, about responding to Sexual Violence should it be encountered or observed. The University is committed to promptly, thoroughly, and impartially responding to Complaints of Sexual Violence in a manner that ensures due process and fairness.

2.0 REPORTING SEXUAL VIOLENCE

- 2.1 Complainants, Reporters and/or Survivors should file Complaints with the Dean of Students as soon as possible after the alleged Sexual Violence occurs. A Complaint can be filed by any person and must be made in writing. Filing a Complaint does not prohibit and/or constitute reporting under other reporting regimes.

3.0 RESPONDING TO COMPLAINTS

- 3.1 The Dean of Students will immediately refer the Complainant and/or the Reporter to the police and/or other appropriate support services.
- 3.2 The Dean of Students will respond to a Complainant or Reporter within 3-5 business days of becoming aware of a Complaint and will handle the matter in accordance with the Sexual Violence Policy and this procedure.
- 3.3 The University will appoint a person or persons to be the primary contact for Complainants, Respondents and other persons involved in the Complaint review and investigation processes. 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 conduct other work for the participants as required under the Sexual Violence Policy and this procedure.
- 3.4 Any Modifications reasonably required as a result of a Complaint will be provided in accordance with section 10.0 of this procedure.

4.0 COMPLAINT REVIEW AND INVESTIGATIONS

- 4.1 The Dean of Students will determine whether the matters described in the Complaint should be investigated. In determining whether or not a Complaint will be investigated, the Dean of Students will consider whether, alleged behaviors are true, it would be a violation of the Sexual Violence Policy. The Dean of Students will consider each situation individually.
- 4.2 An investigation will not be conducted into a Complaint if:
- i. The Complaint was made in bad faith;
 - ii. The Complaint is frivolous or vexatious; or
 - iii. The Complaint does not provide sufficient information to permit an investigation.
- 4.3 If, after assessing the information with respect to a Complaint, the Dean of Students determines that an investigation will not be pursued, the Dean of Students will document the rationale for not initiating an investigation and may advise the Complainant and the Respondent of the reasons for not pursuing an investigation.
- 4.4 In the event an investigation of a Complaint is required, the Dean of Students will appoint an investigator(s) within ten (10) business days of receipt of the Complaint. The investigator(s) may be an employee of the University or an external person.
- 4.5 To conduct a timely and effective investigation, the University strongly encourages Reporters and Complainants to file a Complaint as soon as possible following the occurrence of the alleged Sexual Violence. Delaying the filing of a Complaint may impede the University's ability to conduct an investigation and/or take appropriate action.
- 4.6 The Sexual Violence Response Team will consider all relevant factors in the circumstances when determining the investigator(s), including without limiting:
- the nature of the Complaint;
 - the ability for objectivity and lack of bias in the investigation (i.e. no investigation team members with real, potential or perceived conflicts of interest or biases);
 - the ability to maintain the confidentiality of all information;
 - knowledge of legal and compliance requirements of the core nature/subject matter of the allegation;
 - potential investigation team member's ability to identify and access the appropriate resources to conduct the investigation in a timely manner; and
 - the need to retain external investigators or experts in highly sensitive, specialized or confidential matters.
- 4.7 Based on the needs of the investigation, the Dean of Students will make adjustments to the investigation team composition in order to balance the functional skills, operations knowledge, and seniority of the individuals.
- 4.8 Terms of reference will be established by the investigation team for each investigation in order to best support the context of the alleged incident and to define, among other matters, the scope of the investigation and the projected timeline of completion of the investigation.

- 4.9 The Dean of Students and investigators appointed to investigate Complaints may at any time collect, directly or indirectly, use and disclose personal information, individually identifying information and any other information from any Member of the University Community that is considered necessary to manage and investigate Complaints.
- 4.10 The investigation will be completed as expediently as possible, in most cases within thirty (30) calendar days of the date the Complaint was filed.
- 4.11 Both the Complainant and the Respondent have the right to have a support person present during the investigation process. Such support person may be present with the party but may not advocate on the party's behalf.
- 4.12 Complainants or Respondents who are members of the Concordia Support Staff or the Concordia Faculty Association have the right to representation by their association.
- 4.13 Investigations will be conducted in a systematic, orderly and discreet manner and confidentiality will be maintained wherever possible. The objectives of an investigation will be to:
- compile information relating to the Complaint as quickly as possible (including, if applicable, taking steps to protect or preserve documents, materials and equipment);
 - consider the information collected and draw conclusions objectively and impartially; and
 - maintain procedural fairness in the treatment of witnesses, the Complainant and the Respondent.
- 4.14 Investigations will be conducted in a manner which has regard for procedural fairness.
- 4.15 The investigator may, where required by the circumstances, assess the credibility of the Complainant, the Respondent and all other witnesses.
- 4.16 Where possible, the Complainant and the Respondent will be notified when the investigation is complete.

5.0 CRIMINAL INVESTIGATION

- 5.1 A criminal report may be pursued by a Complainant at any time even if non-criminal options are also being pursued. Criminal investigations may be initiated following the making of a report to the appropriate police or Royal Canadian Mounted Police (RCMP) detachment. The Dean of Students can assist a Complainant to contact the police or RCMP if the Complainant would like to pursue criminal charges.

6.0 OUTCOMES

- 6.1 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 findings from the investigation will be shared with the Complainant and the Respondent.

- 6.2 The investigator will provide the Dean of Students with a written investigation report. The report will include:
- All relevant facts and accompanying analysis;
 - Witness statements;
 - Witness credibility assessment and, where appropriate, conclusions as to credibility;
 - Description of any interim measures instituted;
 - Investigation findings with supporting evidence; and
 - Assessment of whether or not the allegations are sustained.
- 6.3 If requested by the Dean of Students, the investigator may include within the final investigation report recommendations arising from conclusions drawn as to whether any corrective measures should be taken by the University or the Respondent and whether any sanctions and/or disciplinary measures should be imposed.
- 6.4 If the investigator concludes there has been a breach of the Sexual Violence Policy, another University policy or a breach of law or the findings are inconclusive, the Dean of Students will consider discipline or sanctions in accordance with the terms of the relevant collective agreement or policy. If the investigator makes no findings that establish a breach of policy or law, the Dean of Students will close the Complaint and take no further action.
- 6.5 In the case of a breach of the Sexual Violence Policy, the Respondent or the Complainant (in the event a Complaint is made in bad faith) will be subject to penalties, discipline or sanctions in accordance with the applicable collective agreement and/or University policy, as the case may be, subject to an ability to exercise appeals rights as may be contained therein.
- 6.6 The Dean of Students may make recommendations to responsible offices regarding corrective actions, discipline and/or sanctions.
- 6.7 On an annual basis the Dean of Students will prepare a summary report of all investigations held during the relevant time period for review by the President.

7.0 ALTERNATIVE RESOLUTION PROCESSES

- 7.1 In appropriate circumstances and with the consent of both the Complainant and the Respondent, the Dean of Students may pursue any form of alternative resolution process, including but not limited to, education and training or other means to resolve the Complaint.
- 7.2 The goal of alternative resolution processes is to resolve Complaints co-operatively at the earliest stage possible through an alternative resolution procedure. Participation in an alternative resolution process is voluntary for both the Complainant and the Respondent.

8.0 CONFIDENTIALITY

- 8.1 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 Complaint being received through to the end of the resolution process and outcome. In order to enhance confidentiality, as few people as are required will handle Complaints.
- 8.2 The Dean of Students is authorized to collect, directly or indirectly, use and disclose personal information, individually identifying information and any other information that is considered necessary to manage and investigate Complaints.
- 8.3 Subject to section 6.1 above, the details and results of investigations will not be disclosed or discussed with any person other than those University employees, contractors or advisors who have a legitimate need to know such results in order to perform their duties and responsibilities. However, the Dean of Students may at any time disclose 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.

9.0 CONFLICTS OF INTEREST

- 9.1 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 Dean of Students will appoint appropriate persons to lead and conduct the investigation in order to avoid a conflict of interest. The direct supervisors and managers of either the Complainant or the Respondent will take no part in assessing or leading the investigation of a Complaint. Similarly, the instructor of a student who is either a Complainant or a Respondent will take no part in assessing or leading the investigation of a Complaint.

10.0 MODIFICATIONS

- 10.1 Students who feel they are in need of Modification due to Sexual Violence or involvement with a Complaint (e.g., assignment extension, exam deferral, class scheduling, or withdrawal from a class) can access assistance from the Dean of Students.
- 10.2 University employees who feel they are in need of workplace Modification due to Sexual Violence or involvement with a Complaint can access their respective association or Human Resources for assistance.

11.0 SUPPORTS AND RESOURCES

- 11.1 Any Member of the University Community who receives a Complaint must immediately provide the individual with information on support options and resources as outlined in 11.2.
- 11.2 The University is committed to providing all Members of the University Community, including Respondents, Complainants, Reporters and Survivors, with the following supports:

- Counselling and related support through Counselling Services, Human Resources or community agencies partnering with the University;
- Modification options through Student Life and Learning, the Dean of Students or Human Resources, as appropriate;
- Medical services through the Alberta Health Services with initial care, follow-up, and/or referral;
- Reporting options through the Dean of Students; and/or
- Education and training on matters including Sexual Violence reporting, prevention and general awareness.

11.3 All Survivors can expect and have the right to, subject to reasonable limits:

- Be provided with safety planning assistance;
- Be informed about available on- and off-campus support services and resources; and
- Decide whether or not to report an incident of Sexual Violence.

12.0 EDUCATION AND PREVENTION

12.1 All Members of the University Community are encouraged to participate in Sexual Violence educational programs and initiatives offered by the University.

12.2 All Members of the University Community can assist with maintaining an educational and working environment free from Sexual Violence by:

- Modelling healthy and respectful behavior in all relationships at the University;
- Speaking out against conduct that may encourage or condone Sexual Violence;
- Speaking out against behaviour that discourages reporting of Sexual Violence;
- Promoting the University's safe disclosure policies and procedures; and
- Intervening in situations that may constitute, or lead to, Sexual Violence.