

Policy Number:	8009
Policy Title:	Sexual Violence and Misconduct
Approved by:	President
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Next review date:	April 2025

Policy Statement

University Canada West (the “University”) is committed to providing a safe working and learning environment that allows for full and free participation of all members of the University Community. Sexual Violence and Misconduct undermines these objectives and violates the fundamental rights, personal dignity and integrity of individuals.

Purpose

The purposes of this Sexual Violence and Misconduct Policy (this “Policy”) and the related Sexual Violence and Misconduct Procedure (the “Procedure”), are to articulate the University’s duty and commitment to support members of the University Community who are impacted by Sexual Violence and Misconduct, to create and make available programs and resources to educate its community on the prevention of Sexual Violence and Misconduct, and to provide a fair and effective process for responding to and investigating allegations of Sexual Violence and Misconduct.

Scope

This Policy applies when:

- an incident of Sexual Violence and Misconduct is alleged to have occurred on University property, or off University property in connection with an event or activity sponsored by or under the auspices of the University, and
- the alleged Sexual Violence and Misconduct involves a member of the University Community, or a person who was a member of the University Community at the time of the incident.

If an incident of Sexual Violence and Misconduct does not meet the above criteria, the University may still take steps to mitigate the impact of the incident on the learning or working environment.

The University does not have jurisdiction to take disciplinary action against a person who is not a member of the University Community or who is not currently affiliated with the University. However, under certain circumstances the University may be able to take other action, such as revoking a person’s access to University property or a University event.

This Policy is separate from any criminal or civil proceedings. The University is not responsible for determining violations of criminal or civil law.

Definitions

These definitions apply to terms as they are used in this Policy and the Procedure:

Word/Expression	Definition
Accommodation	The process or action by which reasonable arrangements are made to support the academic, employment, health, well-being and safety needs of a member of the University community impacted by sexual violence and misconduct.
Age of Consent	In British Columbia, the age of consent is 16 years.
Alternative Resolution Process	An accountability process that is not investigative and that is intended to reconcile a Complainant and a Respondent. It includes, but not limited to, forms of mediation and restorative justice that promote reconciliation, settlement and understanding.
Balance of Probabilities	The evidence shows that the sexual violence and misconduct that has been reported is more likely to have occurred than not.
Complainant	A person who files a Report. In some instances, the University through the Vice President (Academic Affairs) or the Vice President (Administration) may act as a Complainant where it becomes aware of allegations of Sexual Violence and Misconduct that, if true, would violate this Policy but no person comes forward with a Report, or where an investigation is required by law.
Consent	<p>Freely given voluntary agreement to engage or continue to engage in the sexual activity in question which must be affirmatively communicated through words or actively expressed through conduct. For the purposes of this Policy, Consent</p> <ul style="list-style-type: none"> • is never assumed or implied, • is not silence, inaction or the absence of “no”, • cannot be given if the individual is incapacitated by alcohol or drugs, or is unconscious, • can never be obtained through threats or coercion, • can be withdrawn at any time, • cannot be obtained if a party induces another to engage in sexual activity by abusing a position of trust, power or authority, • given for one kind or instance of sexual activity does not mean that consent is given for any other sexual activity or instance, and • cannot be expressed by the words or conduct of a third party, • may not be implied from the relationship status of the parties nor from past consent to sexual activity. • is not considered given if it involves a person in a power relationship with a student or employee (faculty/student; supervisor/employee) • may not be proved by evidence of a person’s sexual reputation or history of sexual activity.
Cyber-harassment or cyber-stalking	Repeated, unsolicited, threatening behavior by a person or group using mobile or Internet technology with the intent to terrify, intimidate, humiliate, threaten,

Word/Expression	Definition
	harass, or stalk someone else for a sexual purpose. May include: unsolicited posts and comments on social media sites, emails, texts, graphic images and posts directed at the survivor, or instant messaging.
Director	Can be either <ul style="list-style-type: none"> the Director, People & Culture (Human Resources), if the person making a Disclosure or filing a Report is an Employee, or the Director of Student Affairs & Services, if the person making a Disclosure or filing a Report is a Student.
Disciplinary Sanctions	The sanctions that may be imposed for violations of this Policy as follows: <ol style="list-style-type: none"> Letter of reprimand Directed academic or non-academic activity such as a ‘no contact’ direction, the regulation of classroom usage, the removal from a course of study or program or restricting participation in non-academic programs Loss of privileges or loss of use of University facilities or assets for a temporary period or permanently Suspension, imposed by the President Expulsion and termination imposed by the President.
Disclosure	The communication to a University Employee of an experience of Sexual Violence and Misconduct. Disclosure on its own does not initiate an investigation, except where required by this Policy.
Employee	An Employee of the University.
Indecent exposure	Exposing one’s body to another individual either physically or electronically, or through any other means, for a sexual purpose without the individual’s consent, or coercing another individual to remove their clothing in order to expose their body.
Investigator	A person appointed by the University to investigate a Report.
Procedurally fair	A process: <ol style="list-style-type: none"> based on impartiality and absence of bias; where the parties are informed of the allegations made against them; that includes a meaningful opportunity to defend against such allegations, including the right to be given sufficient notice of interviews or meetings where they are expected to present evidence or their perspective on the facts or on evidence gathered as part of the process; and leading to a decision that includes a sufficiently detailed explanation of the grounds on which it is based in such a way that the parties can understand the basis on which it is made.
Report	A formal written report containing allegations of Sexual Violence and Misconduct or other violation(s) of this Policy.
Respondent(s)	A person or persons alleged to have engaged in conduct that violates this Policy.
Responsible Administrator	The Vice President (Academic Affairs) if the person making a Disclosure or filing a Report is a student and the Vice President Administration) if the person making a Disclosure or filing a Report is an Employee.
Retaliatory Action	Any adverse action or threatened action taken or made through any means, including through social or other electronic media, against a person who is, in good

Word/Expression	Definition
	<p>faith, seeking redress or who is otherwise engaged in a process under this Policy, or who is associated with such a person. Retaliation includes threatening, intimidating, or harassing conduct that could discourage a person from seeking support or other services, disclosing or reporting Sexual Violence and Misconduct, participating in an investigation, or otherwise engaging with this Policy.</p>
<p>Sexual exploitation</p>	<p>Abuse or exploitation of another person’s sexuality without consent, for the perpetrators own advantage or benefit, or for the benefit or advantage of anyone other than the one being exploited. Examples of sexual exploitation include:</p> <ul style="list-style-type: none"> • causing or attempting to cause the incapacitation of another person in order to gain a sexual advantage over that person; • causing the prostitution of another person; • electronically recording, photographing, or transmitting intimate or sexual utterances, sounds or images of another person; • allowing third parties to observe sexual acts; • distributing intimate or sexual information about another person; <p>knowingly transmitting a sexually transmitted infection, including HIV, to another person.</p>
<p>Sexual harassment</p>	<p>A comment, act or representation of a sexual nature, including sexual advances, requests for sexual favours, suggestive comments or gestures, or physical contact by a person who knows, or ought reasonably to know, that the conduct or comment is unwanted or unwelcome. The behavior interferes with another person’s participation in a University-related activity; or leads to or implies employment or academically-related consequences for the person harassed; or creates an intimidating, humiliating or hostile environment. Examples of sexual harassment include, but are not limited to the following acts:</p> <ul style="list-style-type: none"> • Demanding a hug, date or sexual contact • Unwanted touching • Use of derogatory language, sex-and/or gender-specific derogatory names, and/or comments related to a person’s sexual appearance, characteristics or behavior • Sexual jokes, including sexual jokes or offensive sexual material circulated by email • Spreading sexual rumours • Bragging about sexual prowess • Distributing and/or displaying sexually explicit images of self or others to a person who has not consented to being a recipient of the images <p>Unwanted questions about sexual history.</p>
<p>Sexual Violence and Misconduct</p>	<p>Any sexual act, or act targeting a person’s sexuality, gender identity, or gender expression, whether the act is physical or psychological in nature, which is committed, threatened or attempted against a person without the person’s Consent, including but not limited to:</p> <ul style="list-style-type: none"> • sexual assault; • sexual exploitation; • sexual harassment; • stalking;

Word/Expression	Definition
	<ul style="list-style-type: none"> • cyber-harassment or cyber-stalking; • stealthing • indecent exposure; • voyeurism; • the distribution of an image, photograph, or video of a person of a sexual nature without the consent of that person; • the attempt to commit an act of Sexual Violence and Misconduct; or • the threat to commit an act of Sexual Violence and Misconduct.
Stalking	<p>Behaviours that occur on more than one occasion, which collectively instill fear in the person who has been victimized, or threaten a person’s safety or mental health. These behaviours include but are not limited to:</p> <ul style="list-style-type: none"> • non-consensual communications (face to face, phone, email, social media); • threatening harm to the person being stalked and/or to family, friends, or pets; • vandalizing property; • showing up uninvited to the person’s home or workplace or place of study; • surveillance; • sending unsolicited gifts.
Stealthing	The act of removing a condom during sex without consent.
Student	A person who is enrolled as a student at the University.
University Community	All University Employees and Students, and any other person who is contractually obligated to comply with this Policy.
Voyeurism	Non-consensual viewing, photographing, or otherwise recording another individual in a location where there is an expectation of privacy and where the viewing, photographing, or recording is done for a sexual purpose.
Young Person	A person who is under the age of 19 years.

Policy Principles

1. Sexual Violence and Misconduct is strictly prohibited under this Policy.
2. A breach of this Policy by a member of the University Community constitutes misconduct and may be cause for disciplinary sanctions including, where appropriate, suspension, dismissal or expulsion.
3. The University recognizes its responsibility to increase awareness of Sexual Violence and Misconduct, to prevent its occurrence within the University Community, to support persons impacted by Sexual Violence and Misconduct, to provide procedures to handle Disclosures and Reports, and to remedy situations where Sexual Violence and Misconduct has been found to have occurred.
4. The University is committed to addressing Sexual Violence and Misconduct by:

- implementing and actively promoting awareness and training programs to educate the University Community regarding Sexual Violence and Misconduct and the issues addressed in this Policy;
 - promoting working and learning conditions that seek to eliminate the potential for incidents of Sexual Violence and Misconduct to occur within the University's facilities or operations;
 - reducing barriers to Disclosing and filing Reports regarding Sexual Violence and Misconduct;
 - responding to Disclosures and Reports in a procedurally fair, efficient and consistent manner;
 - supporting members of the University Community who are impacted by Sexual Violence and Misconduct, through academic, non-academic, and other supports as required; and
 - communicating the support services and the resources available to members of the University Community who may be directly or indirectly impacted by Sexual Violence and Misconduct.
5. All persons who Disclose or file a Report regarding an experience of Sexual Violence and Misconduct can expect from the University:
- to be treated with compassion, dignity, and respect;
 - to be respected in their choice as to whether they wish to Disclose or file a Report regarding their experience;
 - timely assistance with safety planning;
 - timely information about available support services and resources;
 - discussion of appropriate academic, workplace or other accommodations;
 - to be advised of the options for addressing an incident of Sexual Violence and Misconduct, and the limits to confidentiality associated with each option;
 - if they decide to file a Report, a clear explanation of the investigation and decision process, a timely, procedurally fair and unbiased process, and regular updates on the status of the process; and
 - that reasons will be provided for decisions made throughout the process.
6. All persons who are accused of violating this Policy can expect from the University:
- to be treated with compassion, dignity, and respect;
 - timely information about available support services and resources;
 - to be advised of the options available to them;
 - if a Report is filed, a clear explanation of the investigation and decision process, a timely, procedurally fair and unbiased process, and regular updates on the status of the process; and
 - that reasons will be provided for decisions made throughout the process.
7. The University strongly encourages all members of the University Community to become knowledgeable about Sexual Violence and Misconduct and their rights and obligations under this Policy and the Procedure.

8. The University reserves the right to initiate an investigation and/or to inform the relevant law enforcement agency without the consent of the person Disclosing or filing a Report regarding an incident of Sexual Violence and Misconduct, if the University has a reasonable belief that the safety of a member of the University Community is at risk; for example: when repeated allegations have been made about the conduct of the same person; where such action is required by law; or when there is publicly displayed evidence of Sexual Violence and Misconduct having occurred such as in a video posted on social media .

9. The University may accept a Report of Sexual Violence and Misconduct that is anonymous or made by a third party. Such Reports may be investigated where they contain sufficient evidence. When such a Report identifies a Member of the University Community as the survivor of Sexual Violence and Misconduct that person has the right to be informed about the Report and may choose whether or not to participate in an investigation of that Report.

10. The University reserves the right to implement interim measures as it considers appropriate, to protect the safety of the University Community or any of its members during an evaluation of a Disclosure or Report, or pending the completion of an investigation. Such measures may include, but are not limited to: directing the Complainant, Respondent, witnesses or other parties to cease and desist from engaging in a particular type of behaviour; restricting access to a University campus or specific areas of a University campus; alteration of the learning or work schedule of an individual; imposing a no-contact directive; and/or temporary, non-disciplinary leave of an individual.

11. A member of the University Community has the right to pursue other processes external to the University in connection with alleged Sexual Violence and Misconduct, such as reporting the matter to the police, initiating a civil action, or filing a complaint under the BC Human Rights Code. If an external course of action is pursued, the University may elect to continue with the process under this Policy, or to suspend the process under this Policy pending the outcome of the external process.

Associated Procedure

Procedure Number	Procedure Title
8009p	Sexual Violence and Misconduct Procedure

Responsibility

The Director, People & Culture (Human Resources) and the Director of Student Affairs & Services have joint responsibility for the administration of this Policy and the Procedure.

Review of This Policy

The University will conduct regular reviews to evaluate the effectiveness of this Policy, with reviews occurring at least once every three (3) years, or as otherwise required by law.

Amendments to This Policy

The University reserves the right to amend or update this Policy from time to time at its sole discretion.