

Procedure Number:	8009p
Procedure Title:	Sexual Violence and Misconduct
Approved by:	President
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Review date:	N/A
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1. Purpose

1.1. The procedures set out below are designed to support the Sexual Violence and Misconduct Policy (the “Policy”).

2. Prevention and Response Program

2.1. The University will establish and maintain a Sexual Violence and Misconduct Prevention and Response Program, that will include but not be limited to the following elements:

- Conducting institutional risk assessment of current policy compliance and prioritizing any identified risk mitigation strategies for the University
- providing mandatory education and training to the University Community regarding the Policy
- establishing procedures for reporting, investigating and documenting incidents of Sexual Violence and Misconduct in a prompt and confidential manner and in accordance with WorkSafeBC regulations, where applicable
- notifying members of the University Community who may be exposed to a known risk of Sexual Violence and Misconduct, of the nature and extent of the risk
- providing appropriate support or referrals to members of the University Community who Disclose or file a Report under the Policy
- ensuring that appropriate corrective actions are taken in response to incidents of sexual violence and misconduct; and
- conducting regular reviews to evaluate the effectiveness of the Policy and this Procedure, with reviews occurring at least once every three (3) years.

3. Accommodation and Safety Planning

3.1 A member of the University Community who wishes to create a safety plan, or request workplace, academic or other accommodations, arising from an incident of sexual violence and misconduct may contact

- the Director, People & Culture (Human Resources), if the person seeking such support is an Employee, or
- the Director of Student Affairs & Services, if the person seeking such support is a Student.

3.2 Appropriate supports and reasonable accommodations will be made available and may include:

- a. safety planning and safety measures
- b. academic and workplace accommodations
- c. class or work schedule changes
- d. assistance with finding financial aid, and/or
- e. other appropriate supports

4. Disclosure of Sexual Violence or Misconduct

4.1 A member of the University Community who has experienced sexual violence and misconduct may choose to disclose the experience by confiding in another member of the University Community. When a member of the University Community receives a disclosure of Sexual Violence or Misconduct from a Student, they should respond to the Student in the manner described in Appendix A.

4.2 The University encourages, but does not require, members of the University Community who have experienced Sexual Violence and Misconduct to seek immediate assistance. Seeking assistance promptly may be important to ensure physical safety, to obtain medical care or emotional support, or to preserve evidence.

4.3 A Disclosure is not the same as a Report under the Policy and does not normally serve to initiate an investigation or other process. To initiate an investigation, a Report must be filed with the Director.

4.4 A member of the University Community who receives a Disclosure of Sexual Violence and Misconduct must notify the Director, or Campus Security if the Director is not available, if any of the following circumstances apply:

- a. a person is at risk of self-harm or of harming others
- b. there is an imminent risk of harm to the University Community and/or the broader community
- c. the Disclosure involves sexual harassment in a University workplace
- d. a Young Person (as defined in the Policy) is involved or affected, or
- e. disclosure is otherwise required by law

In these instances, the minimum amount of information needed to meet legal or other obligations will be disclosed, and every effort will be made to involve the person making the Disclosure in decision-making and to mitigate any associated risks. Any University Community member who is unsure about their responsibility to disclose should seek advice from the Director.

4.5 The decision to Disclose and the decision to Report are separate decisions. An individual may elect to Disclose without filing a Report. Consequently, a Disclosure may not result in a Report and does not necessitate the initiation of an investigation or other actions by the University should the individual choose to Disclose without filing a Report.

5. Reports of Sexual Violence and Misconduct or Other Violations of the Policy

5.1 A member of the University Community who has experienced Sexual Violence and Misconduct, or who is otherwise affected by a violation of the Policy, may file a Report under the Policy by submitting the Report in writing to the Director.

5.2 The Report should set out the relevant details regarding the alleged Sexual Violence and Misconduct, or other alleged violation of the Policy. The Report should include a list of any potential witnesses, along with a description of the information those witnesses are expected to provide. Any relevant documents, including any social media or digital communications, should also be included with the Report.

5.3 A Complainant has the right to withdraw a Report at any stage of the process. However, the University may continue to act on the issue identified in the Report to comply with its obligations under law or the Policy.

6. Initial Review

6.1 Upon receipt of a Report, the Director will conduct an initial review to determine whether the allegations in the Report fall within the University's jurisdiction to investigate under the Policy. This review will occur within 14 calendar days of receiving a Report unless exceptional circumstances exist that prevent the Director from meeting this timeline, in which case they will contact the individual making the Report as soon as possible to inform them of the revised timeline.

6.2 If the Director determines that the Report falls within the University's jurisdiction to investigate under the Policy, they will do one of the following:

- appoint an Investigator to investigate the Report; or
- refer the matter to the alternative resolution process described in section 8.

6.3 If the Director determines that the allegations in the Report do not fall within the University's jurisdiction to investigate under the Policy, they will advise the individual making the Report of this decision along with reasons. If the Director believes that the Report discloses other kinds of misconduct or information that the University may need to act on under another University policy or process, they may refer the Report or the relevant portions of the Report to the appropriate University authority. The Director will consult with the person making the Report before referring it elsewhere.

7. Interim Measures

7.1. The Director may implement interim measures as they consider 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.

8. Alternative Resolution Process

8.1 If the Director believes that an alternative resolution process may be appropriate in the circumstances, they will discuss this option with the Complainant. If the Complainant agrees that an alternative resolution process may be appropriate, the Director will contact the Respondent to advise them that a Report has been made and will discuss this option with the Respondent. If the Respondent agrees to participate in an alternative resolution process and the Director is satisfied that an alternative resolution process is appropriate, then the Director will explore the options available and, with the agreement of both parties, will refer the matter to that process for resolution.

8.2 Participation in an alternative resolution process is entirely voluntary. If either the Complainant or the Respondent decides they no longer wish to participate in the alternative resolution process at any time, then the Director will appoint an Investigator to investigate the Report.

8.3 An alternative resolution process may include, but is not limited to, coordination or facilitation of one or more of the following:

- A separate meeting with the persons involved to review their concerns
- A joint meeting with the persons involved to facilitate a conversation aimed at understanding and resolving their concerns
- A review of needs and expectations with persons involved to clarify and reinforce expectations of appropriate conduct
- Training, mentoring or coaching to enhance understanding of appropriate conduct

- Achieving agreement between the persons involved concerning future conduct and/or
- Follow-up measures with the persons involved after the conclusion of the alternate resolution process to ensure any agreements that made are sustained

8.4 If the alternative resolution process results in an agreement between the persons involved it shall be recorded in writing and signed by them.

9. Investigation

9.1 An Investigator appointed to conduct an investigation into a Report will have prior experience or training in sexual violence investigations.

9.2 The Investigator will advise participants in the investigation process of the option to have a support person present for interviews.

9.3 Except in exceptional circumstances, investigations (including the preparation of the Investigator's report) will be completed within 60 calendar days of the Investigator's receipt of the Report. If during the course of the investigation the Investigator believes that this timeline cannot be met, the Investigator will contact the Complainant, the Respondent, and the Director as soon as possible to inform them of the revised timeline.

9.4 Investigations are not adversarial processes, and hearings will not be held as part of the investigatory process. Formal rules of evidence commonly associated with a civil or criminal trial will not be applied.

9.5 In all investigations, the Respondent will be informed of the allegations made against them and will be given a full opportunity to respond.

9.6 The Investigator will conduct the investigation in a procedurally fair manner, using a process determined by the Investigator. The investigation process may include, but is not limited to, the following:

- requesting a written response to the Report from the Respondent, including a list of any potential witnesses along with a description of the information those witnesses are expected to provide, and any relevant documents, including any social media communications
- meeting with or requesting further information from the Complainant
- meeting with or requesting further information from the Respondent
- meeting with or requesting further information from any other individuals who may have information relevant to the investigation, including any witnesses identified by the Complainant or the Respondent
- inviting the Complainant and the Respondent to submit questions they believe should be asked of the other party or any witness, provided that the decision as to whether such questions will actually be asked of the other party or a witness is entirely within the discretion of the Investigator; and
- obtaining any other evidence that may be relevant to the investigation.

9.7 At the completion of the investigation, the Investigator will submit a written Report to the Director. The Investigator's Report will include the following information:

- a description of the allegations
- a description of the investigation process; a summary of the evidence considered; an analysis of the evidence including any assessment of credibility that is required to make a determination; and

- the Investigator's findings of fact, and a determination as to whether, on a balance of probabilities, the Policy has been violated in respect of each allegation.

10. Investigation Outcomes

10.1 If the Investigator's Report determines that Sexual Violence and Misconduct has occurred, or that the Policy has otherwise been violated, the following will occur:

- the Director will provide a copy of the Investigator's Report to the Responsible Administrator
- the Responsible Administrator will determine what disciplinary sanctions or other measures are appropriate based on the findings in the Report and may recommend suspension or expulsion of a Student or suspension or termination of employment of an Employee to the President
- the Complainant and the Respondent will be notified of the decision of the Responsible Administrator or the President
- the Respondent will be notified of the option to appeal, as described below

10.2. In addition to disciplinary outcomes, the University may require workshops and/or mediation for the Parties or other members of the University Community in the environment affected by the Report or Investigation.

10.3 If the Investigator's Report determines that that the Policy has not been violated, the Director will dismiss the Report and so notify the Complainant and the Respondent. The Complainant will be notified of the option to appeal, as described below.

10.4 Whether or not the Investigator's Report determines that Sexual Violence and Misconduct has occurred, or that the Policy has otherwise been violated, if the Director believes that the Investigator's Report discloses other kinds of misconduct or information that the University may need to act on under another University policy or process, they may refer the Investigator's Report, or the relevant portions of the Report, to the appropriate University authority. When appropriate, the Director will consult with the person making the Report before referring it elsewhere.

11. Confidentiality

11.1 Confidentiality of all persons and information involved in a Disclosure or Report of Sexual Violence and Misconduct is expected.

11.2 To protect the integrity, fairness, and effectiveness of investigations and to ensure compliance with the BC Personal Information Protection Act ("PIPA"), all participants in an investigation must act in accordance with the requirements set out below.

11.3 Individuals, including the Complainant and the Respondent, who have obtained personal information about an identifiable individual through their participation in an investigation must not disclose this information to anybody except their own personal advisors or representatives, or as required by law. However, this section does not prevent:

- any participants in an investigation from disclosing information about themselves, or information that they have obtained outside the investigation; or
- University representatives from disclosing investigation-related information as authorized under the Policy.

11.4 The University will not disclose any personal information related to an investigation except to the extent such disclosure is:

- expressly authorized by the affected individual
- to a University representative, if necessary, for the performance of that individual's duties
- to a Complainant, Respondent, witness, or other participant in the investigation, if necessary, for the conduct of the investigation
- authorized by the Policy, or
- authorized or required under law

11.5 Information may also be shared where:

- an individual is at imminent risk of self-harm
- an individual is at imminent risk of harming another, or
- there are reasonable grounds to believe that others in the University Community or wider community may be at risk of harm

11.6 To maintain the integrity of the investigation process, the University must ensure that both Complainants and Respondents know the investigation findings.

11.7 Under the PIPA, the University is only authorized to disclose disciplinary actions it has taken against a Respondent if the disclosure is authorized by the University for compelling health or safety reasons. The University will normally inform a Complainant of any relevant restrictions that have been imposed upon the Respondent's movements or activities

12. Retaliatory Action, Breaches of Confidentiality, and Frivolous or Vexatious Reports

12.1 Retaliatory Action of any kind is prohibited. This includes Retaliatory Action against a person who Discloses or files a Report regarding Sexual Violence and Misconduct, against witnesses, or against any other persons involved in the process.

12.2 Where a member of the University Community is found to have engaged in Retaliatory Action, or to have breached the confidentiality requirements in the Policy, the University may take appropriate disciplinary action.

12.3 Where an investigation determines that a Report was frivolous, vexatious or vindictive in nature, the University may take appropriate disciplinary action.

13. Appeal

13.1 A Complainant or Respondent may appeal the decision of the Responsible Administrator to the President. A University Employee who has been suspended or terminated from employment by the President and a Student who has been suspended or expelled by the President has a right of appeal to the University's Board of Governors.

13.2 The appeal must be submitted in writing within ten (10) business days of the decision being received by the Complainant/Respondent, and must state specific grounds for the appeal which will be limited to:

- how the Policy was incorrectly applied,
- how due process was not followed, or
- how the severity of the sanction was disproportionate to the nature of the violation of the Policy.

13.3 The appeal will not reconsider the original Report unless the person or body deciding the appeal finds that relevant evidence has become available that was not available at the time of the original decision and there is a strong probability that such evidence would have a significant effect on the decision.

13.4 The appeal may be upheld or dismissed, in whole or in part, and/or referred back to the Responsible Administrator for reconsideration.

13.5 The person or body deciding the appeal will give reasons for their decision in writing.

Appendix A

Disclosure of Sexual Violence or Misconduct by a Member of the University Community

The purpose of this Appendix is to provide advice and guidance to a member of the University Community who is approached by someone who wishes to disclose an incident of Sexual Violence or Misconduct. The Member should:

1. Respond in a manner that demonstrates compassion and respect.
2. Refrain from asking questions or making comments that imply judgment or blaming such as questions about dress, conduct, language, emotional disposition, past sexual history, or consumption of alcohol or drugs.
3. Listen empathically and without judgement or interruption and avoid personal advice.
4. Validate their experience or reactions and reassure them that they are not responsible for the other person's actions.
5. Ask them what can be done to support them.
6. Help them to identify safe individuals within their existing support system and review their current safety.
7. Provide information about on-campus and off-campus resources, as appropriate to the member of the University Community.
8. Encourage them to seek medical attention and counselling support, while respecting their right to choose the services they believe will benefit them the most, including any decision to notify the police.
9. Refer to the Director of People & Culture and/or Director of Student Affairs & Services if accommodations or support services are needed.
10. Inform them of their right to make a formal Report and explain the length of time that an investigation and disciplinary process may take.
11. Do not promise, or agree to conduct, or commence to conduct an investigation into any incident or incidents.
12. Do not call the police unless they specifically ask you to do so.