



York University Board of Governors Notice of Special Meeting

**Wednesday, December 14, 2016, 8:30 to 9:30 am
519 Kaneff Tower, Keele Campus**

PAGE

1. Chair's Remarks (R. Waugh)
2. Establishment of the University Sexual Violence Policy (For approval; D. McFadden)..... 1

Board of Governors

Memorandum

To: Board of Governors

From: David McFadden, Chair, Governance and Human Resources Committee

Date: 12 December 2016

Subject: Establishment of the Policy on Sexual Violence

Recommendation:

It is recommended that the Board of Governors approve the Sexual Violence Policy as found at Appendix A.

Background and Rationale

The University established a Sexual Assault Awareness, Prevention, and Response Policy Working Group in December 2013, which resulted in the Board approving the current Sexual Assault Awareness, Prevention, and Response Policy in February 2015. In March 2015, the provincial government introduced an initiative entitled “It’s Never Okay: An Action Plan to Stop Sexual Violence and Harassment”. Bill 132, the implementing legislation for the Action Plan received Royal Assent on March 8, 2016.

Bill 132, among other things, requires that colleges and universities ensure the following:

- A standalone policy on sexual violence is in place by 1 January 2017
- The policy must outline the process of how the University will respond to sexual violence experienced by students
- Data is to be provided to the government with respect to requests for accommodations and supports, as well as the number of reports and complaints received about sexual violence
- Student input is required to the development of the policy

Board of Governors – Governance and Human Resources Committee

In September, 2016, the University issued an “Interim Guideline for Responding to Sexual Violence”. The Guideline outlined existing processes and procedures related to sexual violence and introduced a new Sexual Violence Response Office to be supported within the Office of Student Community Relations during the interim period.

Policy Development and Consultations

From October to December, 35 consultations were undertaken by the Working Group with community groups across campus, including students, staff, and faculty. The consultations have produced excellent recommendations from the community with respect to the policy, the support services and accommodations available to survivors, as well as how best to approach training, education, and communications.

The Board Governance and Human Resources Committee reviewed the draft policy at its meeting on November 28, 2016. The Board was provided with the same draft that was shared with the entire York community on December 2, 2016. The Sexual Violence policy Working Group met on December 7, 2016 to provide final commentary, which was then followed by a drop-in consultation for community members. These community consultations allowed representatives of the Working Group to meet face-to-face with just under 600 students, faculty, and staff. As well, a confidential on line form was available for submissions, with approximately 40 received.

The final draft of the policy being presented to the Board for approval incorporates relatively few key changes from the December 2 version. Those have been indicated in a track changes found at Appendix B. However, there has been a major reformatting of the draft policy.

Sexual Violence, Policy on

Legislative History: December 12, 2016; For Board Approval

Approval Authority: Board of Governors

Signature:

Description:

1. Purpose

- 1.1 This policy affirms York University's ongoing commitment to foster a culture where attitudes and behaviors that perpetuate sexual violence are rejected, survivors are supported, and those who commit incidents of sexual violence are held accountable. It replaces the Policy on Sexual Assault Awareness, Prevention and Response and the Sexual Harassment Policy.
- 1.2 The policy outlines the supports and services available to those affected by sexual violence, the processes in place to address reports of sexual violence, the rights and obligations of community members regarding sexual violence, and affirms the University's commitment to procedural fairness.

2. Scope and Application

- 2.1 This policy applies to York University community members including but not limited to students, staff, administrators, faculty, librarians, members of the Board of Governors and Senate, adjunct and visiting faculty, postdoctoral fellows, volunteers, contractors, and invited guests.
- 2.2 Any community member who has experienced sexual violence may access supports through the Sexual Violence Response Office. Supports are available to community members regardless of where or when an incident has taken place. A formal complaint is not necessary in order to access support.
- 2.3 The complaint process is available to all York community members whether the sexual violence occurred on campus, off campus or using social media.
- 2.4 It is a violation of this policy for a York community member to commit an act of sexual violence against another York community member.

2.5 Other University policies and procedures relevant to the subject of sexual violence include:

- [Code of Student Rights and Responsibilities](#)
- [Occupational Health and Safety Policy](#)
- [Workplace Violence Policy and Program](#)
- [Workplace Harassment Policy and Program](#)

2.6 In the event of any conflict between this policy and other University policies or procedures, this policy will prevail.

2.7 This policy is not intended to supersede or interfere with collective agreements or prevailing laws and does not preclude those experiencing sexual violence from seeking recourse through criminal or civil proceedings.

3. Definitions

Complaint:

A formal report of sexual violence being filed with the Sexual Violence Response Office.

Complainant:

An individual directly impacted by sexual violence or a University representative who has filed a report under this policy.

Consent:

- a) Consent means active, ongoing, informed, and voluntary agreement to engage in sexual activity; it cannot be implied or assumed.
- b) Consent cannot be given by someone who is incapacitated, unconscious, intoxicated, or otherwise incapable of consenting;
- c) Consent can be withdrawn anytime;
- d) Consent cannot be obtained through threats, coercion, or other forms of control and intimidation, which includes coercion through abuse of a position of trust, power, or authority and;
- e) It is the responsibility of the person who wishes to initiate sexual activity to obtain consent from the other person(s) involved.
- f) The definition of consent does not vary based on a person's sex, sexual orientation, gender identity or gender expression.

Disclosure:

When an individual who has experienced sexual violence confides in someone about their experience. Disclosure is presumed to be for the purpose of obtaining support and services and/or to learn about options to make a formal report but is different from reporting.

Imminent Risk:

An assessment that an act of harm to an individual or individuals is about to occur or that there is a compelling likelihood that an act of harm will occur.

Rape Culture:

A culture which normalizes, trivializes, and excuses sexual violence or blames survivors for having experienced sexual violence; it can be expressed through dominant societal ideas, prevalent attitudes, social practices, media content, or through institutions which condone sexual violence either implicitly or explicitly.

Report:

When an individual who has experienced sexual violence informs the Sexual Violence Response Office about their experience through a formal process that involves an expectation that formal action will be taken against the respondent. A report includes particulars of the sexual violence (e.g. names, date, details of what occurred). Reports can be made internally to the University or externally to bodies such as police services, the Criminal Injuries Compensation Board, the Human Rights Commission, or through civil actions.

Respondent:

The person whose actions are reported to constitute sexual violence.

Sexual Assault:

Any sexual contact made by a person towards another where consent is not first obtained. It is characterized by a broad range of sexual acts, carried out in circumstances in which the person has not freely consented to or is incapable of consenting to sexual activity. Under the Criminal Code of Canada, it has been interpreted as an actual or threatened advance, gesture, touch, or any other sexual act to which an individual has not consented. It includes a person being forced to perform sexual acts against their will. It is determined by a lack of consent, and not by the act itself.

Sexual Harassment:

- a) Unwanted sexual attention of a persistent or abusive nature, made by a person who knows or ought reasonably to know that such attention is unwanted;
- b) The making of an implied or express promise of reward for complying with a sexually oriented request;
- c) The making of an implied or express threat of reprisal, in the form of actual reprisal or the denial of opportunity, for refusal to comply with a sexually oriented request; and/or
- d) Sexually oriented remarks and behaviour which may reasonably be perceived to create a negative psychological and emotional environment for work and study.

Sexual Violence:

Any sexual act or act targeting a person's sexuality, gender identity or gender expression, whether the act is physical or psychological in nature, that is committed, threatened or attempted against a person without the person's consent and includes sexual assault, sexual harassment, stalking, indecent exposure, voyeurism and sexual exploitation.

Sexual Violence Response Office (SVRO):

The university office with primary responsibility to assist persons affected by sexual violence. The Sexual Violence Response Office coordinates supports and resources for those who have experienced sexual violence, receives disclosures and complaints, facilitates safety planning, and assists survivors through the complaint process.

Sexual Violence Response Team:

A group of University personnel that ensures appropriate support and services are provided and coordinates effective responses to incidents of sexual violence and conducts risk assessments related to sexual violence. The team is composed of representatives of the Sexual Violence Response Office, Community Safety Department, Office of Student Community Relations, Security Services, Personal Counselling Services, Residence Life and, in cases involving faculty or staff, relevant Human Resources and/or Faculty Relations representatives.

Support person:

A union representative, legal counsel, friend, relative or other person who accompanies an individual reporting sexual violence during the investigation and/or adjudication process.

Survivor:

Someone who has experienced sexual violence. (Although the term survivor is used throughout the Policy, the individual who has experienced sexual violence has the right to determine how they choose to identify and recognize their own experience.)

University Community Member:

A student, staff, administrator, faculty, librarian, member of the Board of Governors or Senate, adjunct or visiting faculty, postdoctoral fellow, volunteer, contractor or invited guest.

Workplace Sexual Harassment:

- a) engaging in a course of vexatious comment or conduct against a worker in a workplace because of sex, sexual orientation, gender identity or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome, and/or
- b) making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or

advancement to the worker and the person knows or ought reasonably to know that the solicitation or advance is unwelcome.

4. Commitment and Statement of Principles

- 4.1 York University recognizes that universities can play a significant role in preventing sexual violence, supporting survivors, and holding perpetrators accountable. York University is committed to providing and maintaining an environment in which sexual violence is recognized to be unacceptable and is not tolerated.
- 4.2 York University recognizes that anyone can experience sexual violence. Individuals may encounter increased vulnerabilities based on intersectional aspects of their identity or perceived identity including such factors as race, Indigeneity, economic status, gender identity, gender expression, sexual orientation, language, age, ancestry, ethnicity, ability, faith and/or immigration status. Survivors can also experience many barriers to disclosing, reporting, and/or seeking support; barriers can differ based on the lived experience of the survivor. York University strives to reduce these barriers in order to better support survivors in the community. Some acts of sexual violence are motivated by sexism, racism, colonialism, ableism, homophobia and transphobia, as part of a wider societal context that includes patriarchy, whiteness, and colonization as contributors to acts of sexual violence. The Sexual Violence Response Office will work with survivors to determine the appropriate supports and accommodations required based on the individual survivor's experiences and expressed needs.
- 4.3 York University will provide a range of supports and services to individuals affected by sexual violence regardless of where or when such incidents occur and will, to the extent possible, ensure survivors can self-determine the supports and services they wish to access and whether they wish to contact police.
- 4.4 York University will appropriately accommodate the needs of individuals affected by sexual violence, relating to work, study, housing, or extra-curricular activities.
- 4.5 York University recognizes that confidentiality is key to create an environment and culture where survivors feel safe to disclose and seek support and accommodation.
- 4.6 York University is committed to providing on-going training, education, and initiatives aimed at changing attitudes and behaviors that perpetuate sexual violence. The University will support these initiatives through dedicated staff, programming, and related University resources. The University will broadly

communicate these initiatives and effectively respond to the needs of the diverse members of the University community.

- 4.7 The University recognizes the extreme impact that rape culture has on society and will work collaboratively with its community to develop educational programs around this serious systemic issue.
- 4.8 Reports of sexual violence will be dealt with through University complaint procedures and any community member who is found to have committed sexual violence shall be held accountable and subject to sanctions and discipline up to and including expulsion and/or termination of employment where appropriate.
- 4.9 All University officials in any way associated with the implementation of this policy are required to ensure timeliness of response in order to reduce the time required to access supports, services, and accommodations, as well as to ensure the timely resolution of complaints.
- 4.10 York is committed to ensuring that its processes for addressing sexual violence are designed to promote fair, just and timely resolution for those filing complaints and for those against whom complaints are made. Both parties will be provided with information explaining the process.
- 4.11 York University recognizes the traumatic effects of sexual violence and is committed to providing appropriate support and information about options available to survivors. York strives for survivors to:
 - Be treated with compassion, dignity, and respect;
 - Be provided with non-judgmental and empathic support;
 - Have confidentiality maintained and any limits to confidentiality explained;
 - Be informed of the procedures in place to address sexual violence;
 - Be provided with timely safety planning assistance;
 - Be informed about on and off-campus supports and services available to them; and to receive survivor-driven supports and services appropriate to their social identities including race, Indigeneity, economic status, gender identity, gender expression, sexual orientation, language, age, ancestry, ethnicity, ability, faith and/or immigration status;
 - Be provided with necessary academic, workplace, extracurricular and/or housing/dining accommodations as appropriate;
 - Decide whether to pursue criminal or non-criminal reporting options subject to the limits described in this policy;

- Determine what and how much they choose to disclose and to whom;
- Have reasonable and necessary actions taken to prevent further unwanted contact with the respondent;
- Have options for reporting and/or filing a complaint outlined clearly; and
- Wherever possible, retain control over the matter and any decisions pertaining to their experience including reporting to police.

5. Confidentiality

- 5.1 The University recognizes the importance of protecting confidentiality in order to provide an environment in which survivors can disclose sexual violence and obtain support and to ensure reports of sexual violence can be addressed in a fair manner.
- 5.2 The University will make every reasonable effort to maintain confidentiality when it becomes aware of an incident of sexual violence. It will limit disclosure of information to those within the University who need to know for the purposes of providing support and addressing incidents.
- 5.3 Disclosures and reports of sexual violence made to the University are considered confidential and are treated in accordance with the *Freedom of Information and Protection of Privacy Act* and relevant collective agreements. Information regarding disclosures and reports will only be shared with those individuals who have a critical need to know to carry out functions appropriate to an individual's or unit's responsibility to properly address an incidence of sexual violence or as required by law. To the extent possible, the identity of the survivor and the responding person will be anonymized.
- 5.4 The University may be unable to guarantee complete confidentiality if:
- a) an individual is assessed to be at imminent risk of harm to self;
 - b) an individual is assessed to be at imminent risk of harming an identified person;
 - c) there is reason to believe that members of the University community or the broader community may be at imminent risk of harm; and/or
 - d) the University is obligated to investigate or some other reporting/action is required by law (e.g. incidents involving a minor, or requirements under occupational health and safety or human rights legislation).
- 5.5 This list is the exception to the foundational rule of confidentiality and is necessary to ensure the University can act in the interests of the safety of the community and to meet related legal obligations.

- 5.6 In cases where complete confidentiality cannot be maintained, the community member disclosing will be advised at the first available opportunity. Further, efforts will be made to limit the amount of information that is shared and the number of individuals with whom it is shared.
- 5.7 The University will treat complaints and their investigation as confidential and will not release any information unless required to do so by law or as indicated in this policy. Provision of information to witnesses during investigations will be limited to what is reasonably necessary to conduct a fair and thorough investigation. Participants in an investigation including witnesses and support persons will be advised of the need to maintain confidentiality to protect the integrity of the investigation and will be advised to refrain from discussing the matter during the investigation and adjudication process. The obligation to keep information confidential does not prevent a person from pursuing counselling and/or other support services, including personal support networks for either the complainant or respondent.
- 5.8 The University through the Sexual Violence Response Office will collect data with respect to incidents of sexual violence for the purpose of research, compliance with statutory reporting requirements or similar purposes.

6. Supports and Services

6.1 For Those Affected by Sexual Violence

- 6.1.1 A number of supports and services are available to community members affected by sexual violence, irrespective of when or where the incident(s) occurred. The Sexual Violence Response Office will maintain an up-to-date list of supports and services offered by the University and in the community. The University will publicize the availability of this information broadly to members of the University community through <http://www.yorku.ca/sexual-violence-response>
- 6.1.2 A list of supports and services currently available at the University and in the community is found at Appendix A of this Policy.
- 6.1.3 It is not necessary to file a report or complaint in order to access the services provided by the University. Equally, accessing these services does not constitute filing a report or complaint to the University.

6.2 For Respondents

- 6.2.1 Supports and services are also available to respondents through the Office of Student Community Relations for students and through Employee Well Being Office for staff and faculty. Staff and faculty associations are also available to provide supports respectively.

7. Sexual Violence Response Office (SVRO)

7.1 The Sexual Violence Response Office facilitates support, services and accommodations based on the circumstances of the incident and the needs and wishes of the person disclosing and/or reporting. The Sexual Violence Response Office is available to:

- a) Facilitate referrals to University resources and community agencies;
 - b) Coordinate referral to medical services;
 - c) Coordinate academic/workplace accommodations through respective offices;
 - d) Coordinate housing relocation for students on campus;
 - e) Assist with the coordination of safety planning;
 - f) Coordinate access to emergency housing;
 - g) Coordinate emergency financial assistance;
 - h) Coordinate referrals to on and off campus trauma-informed counselling services;
 - i) Provide information about reporting options;
 - j) Assist with decision-making and navigating University processes;
 - k) Manage the flow of information among departments or offices where necessary;
 - l) Coordinate with other institutions where a student may be cross-registered to ensure access to supports and accommodations; and
 - m) Provide effective and ongoing support for survivors with respect to support, services, accommodations, and complaint procedures.
- Wherever needed, the Sexual Violence Response Office advocates on behalf of survivors to ensure the needs of survivors are met at all times.

7.2 The Sexual Violence Response Office can provide confidential assistance in a case where an individual has made a disclosure of sexual violence, but does not wish to file a report. The Sexual Violence Response Office is also responsible for receiving all reports by community members.

7.3 The Sexual Violence Response Office may decide to engage the Sexual Violence Response Team to:

- a) conduct a risk assessment;
- b) assess the appropriate academic, employment and/or other accommodations the survivor may require;
- c) assess whether interim measures should be pursued against the respondent; and/or

- d) in situations where the person affected does not wish to pursue a complaint, determine whether there is an overriding safety or security reason for the University to pursue a complaint. In making this determination, the Sexual Violence Response Team will consider all relevant circumstances including, but not limited to:
 - i. the severity of the incident and the harm inflicted,
 - ii. the potential risk to other members of the community,
 - iii. the location of and circumstances in which the incident took place, and
 - iv. the likelihood of effective resolution without the involvement of the person who experienced sexual violence.

7.4 When the Sexual Violence Response team determines the University will pursue a complaint, it is always the choice of the survivor whether to participate in any investigation or complaint process.

7.5 In making decisions with respect to staff or faculty, the Sexual Violence Response Team shall bear in mind provisions of the respective collective agreement(s).

8. Disclosure

8.1 Disclosure occurs when an individual who has experienced sexual violence confides in someone about the experience. Disclosure can assist an individual in seeking out support and services and to learn about options available to assist them including options to make a formal report. Survivors determine when, what, and how much they choose to disclose.

8.2 Every survivor is entitled to decide whether or not to disclose or report an experience of sexual violence. Subject to the limits of confidentiality described in the Confidentiality section of this policy, the University will support a survivor's right to decide whether to pursue a complaint.

8.3 The University recognizes that some individuals may be hesitant to disclose or report sexual violence in cases where they have been drinking while under age or were using drugs at the time the sexual violence took place. A survivor or community member acting in good faith who discloses or reports sexual violence will not be subject to actions for violations of the University's policies related to drug and alcohol use at the time that the sexual violence took place.

8.4 Disclosures may be made to any community member. Disclosures may relate to a respondent who is or is not a member of the University community and may relate to incidents that are current or that occurred at any time in the past.

- 8.5 All members of the University community to whom sexual violence is disclosed have a duty to advise the individual disclosing of this Policy and the existence of the Sexual Violence Response Office. Any community member other than a professional counsellor receiving a disclosure should contact the Sexual Violence Response Office to inform the office that they have received a disclosure and may do so without sharing the identity of the individual making the disclosure if they do not have the consent of the survivor. Sexual Violence Response Office can also provide support and resources to community members receiving a disclosure.
- 8.6 While disclosure may be made to any community member, survivors are encouraged to contact the Sexual Violence Response Office directly. The Office will provide, on a confidential basis, assistance in obtaining supports and services as well as information regarding options for reporting the incident.

9. Reporting

9.1 Emergency Reporting

- 9.1.1 If someone is at immediate risk of harm, community members are encouraged to call emergency services at 911 immediately, and then contact Security Services at 416-736-5333 or ex. 33333.
- 9.1.2 If Security Services is advised of an incident, they may report the matter to Police Services in circumstances of imminent risk of harm as described in Section 5 above. Persons affected may be contacted by police as part of their investigation into the matter.
- 9.1.3 Security Services will inform the Sexual Violence Response Office of any incident reported to it, which may follow-up with persons affected.
- 9.1.4 The University may issue a Security Bulletin in accordance with the respective protocol to inform community members of an ongoing risk related to an incidence of sexual violence.

9.2 Reporting Generally

- 9.2.1 Reporting to the University occurs when an individual who has experienced sexual violence pursues a formal process through the Sexual Violence Response Office that involves an expectation that action be taken against the respondent.
- 9.2.2 Reporting sexual violence to the University does not prevent a person from reporting through the criminal justice system (i.e. police) or through other available processes such as to the Human Rights Tribunal of Ontario, the Criminal Injuries Compensation Board or through the civil

courts. Equally, reporting through police or other mechanisms does not prevent a person from also reporting to the University.

- 9.2.3 The decision to report sexual violence is the choice of the person affected. In addition, that individual has the right to subsequently withdraw the complaint at any time and has the right not to participate in any University investigation. If a complaint is withdrawn, University supports and accommodations are still available for both the complainant and respondent.
- 9.2.4 No one is entitled to either directly or indirectly intimidate, threaten, coerce, discriminate against, harass, retaliate, or engage in reprisals against an individual who is:
- a) reporting an incident of, or making a complaint about sexual violence, or
 - b) participating in or has co-operated with an investigation under this Policy.
- 9.2.5 The University may institute measures it considers appropriate to prevent reprisal such as separating the parties to a complaint in the academic, work or housing environment or prohibiting communication between the parties pending the complaint process. Anyone engaged in reprisal or who violates the University's direction may be subject to sanctions and/or discipline including possible termination or expulsion from the University.
- 9.2.6 Reporting to police services will only be made with the informed consent of the survivor, unless there has been an assessed imminent risk of harm as outlined in Section 5. Reporting to the police or to other external agencies (e.g. Ontario Human Rights Tribunal) is the only way to formally seek redress against a respondent who is not a member of the University community.
- 9.2.7 Those reporting will be provided with information regarding supports, services, safety planning, and accommodation, University complaints processes and other options for reporting having regard to the circumstances of the case. The Sexual Violence Response Office can facilitate making a complaint.

10. Complaint Process

- 10.1 The Sexual Violence Response Office is responsible for receiving all non-emergency reports of sexual violence. Any community member who experienced sexual violence by another community member may commence the reporting process by contacting the Sexual Violence Response Office in person or [electronically](#).
- 10.2 A complaint is finalized on the date on which it is received by the University in writing and signed by the complainant. The complaint will include the following:
 - a) name of the Complainant
 - b) name of the Respondent (if known); and
 - c) a description of the particulars including but not limited to date(s), time and location where the incident(s) occurred.
- 10.3 The Complainant will be provided with a copy of the complaint.
- 10.4 The University has the jurisdiction to investigate reports made against a community member and will do so as expeditiously as possible.
- 10.5 Complaints involving staff or faculty respondents will be processed in accordance with the applicable collective agreement and/or university policy or program.
- 10.6 Throughout the complaint process, complainants, and respondents have the right to be accompanied by a support person, who must also adhere to the confidentiality requirements of the process.
- 10.7 Complainants and respondents will be provided with appropriate procedural fairness throughout the process.
- 10.8 A complaint may be filed if the respondent is a community member at the time of the incident reported in the complaint. A complaint process may continue after the complainant's relationship to or with the University ends if the respondent continues to be a member of the University community. If the respondent's relationship to or with the University ends before the complaint process has been completed, the process may be suspended. The process may resume if the respondent returns to the University at a future date.
- 10.9 The filing of a complaint under this Policy is independent of any criminal investigation or proceeding (i.e. a person may report an incident to both the University and the police). The University's investigation and decision-making may be suspended pending in the outcome of the criminal proceeding. However, the University may take interim measures as it considers necessary

to protect the complainant and/or the University community pending the outcome.

11.Complaints Against Students

11.1 Preliminary Assessment

- 11.1.1 After a complaint is filed, it will be transmitted to the Sexual Violence Response Team for preliminary assessment. The Sexual Violence Response Team will assess whether the complaint falls within the jurisdiction of this policy. If the Sexual Violence Response Team determines that the complaint is outside the jurisdiction of the policy or that the matter should not be investigated, it will provide written notice of that decision to the complainant.
- 11.1.2 A Complainant may request reconsideration of a decision by the Sexual Violence Response Team that a complaint will not be investigated. A request for reconsideration must be made in writing within 45 calendar days of receipt of the written notice of decision and must be submitted to the Vice-Provost Students for decision.
- 11.1.3 Requests for reconsideration may be facilitated through the Sexual Violence Response Office.

11.2 Complaint Resolution

- 11.2.1 If the Sexual Violence Response Team determines that the complaint should be processed through the complaint procedure of this policy, it will refer the complaint to the Centre for Human Rights (CHR) for processing.
- 11.2.2 The Sexual Violence Response Team may impose interim measures as it considers necessary to ensure safety of the person reporting or others in the community, to reduce contact between the parties, to prevent retaliation or to avoid a hostile environment. Interim measures may include “no contact” orders, and/or changes in academic, extracurricular, housing, dining, employment or other arrangements. Both the respondent and the complainant may request modifications to the interim measures and may make a written submission in support of their request. Requests for modifications will be submitted to the Centre for Human Rights, which will bring the matter to the Sexual Violence Response Team for consideration.

11.2.3 Centre for Human Rights will ensure a copy of the complaint is promptly forwarded to the respondent who will be provided with an opportunity to submit a written response.

11.3 Informal Resolution

11.3.1 Many cases of sexual violence are not well suited to alternative resolution. However, there may be instances in which the complainant and respondent wish to pursue informal resolution through mediation/facilitation, restorative justice, or similar methods.

11.3.2 The Sexual Violence Response Office will provide information to the complainant regarding informal resolution options and the Centre for Human Rights will provide information to the respondent regarding informal resolution options. Participation in informal resolution is voluntary and either party may withdraw from the process at any time.

11.4 Formal Resolution

11.4.1 When a decision is made that formal resolution is the appropriate course of action the Centre for Human Rights will appoint an investigator to conduct a full investigation. The investigator may be an individual internal to the University or an external person retained for this purpose. The investigator will be properly trained to conduct investigations into sexual violence complaints, trauma-informed investigations, and the potential impact of intersectional identities on how sexual violence is experienced. The complainant and the respondent will be informed that they may have a support person present during the investigation process.

11.4.2 The steps taken to investigate a complaint may vary but will generally involve the following:

- a) the complainant and the respondent are informed in writing that an investigation is being undertaken, describing the allegations and the possible sanctions.
- b) the respondent is given the opportunity to provide a written response to the complaint and the complainant has the opportunity to reply to the written response;
- c) the investigator conducts one or more separate interviews with the complainant and respondent to obtain any additional information, documents, names of witnesses and other evidence that may be considered relevant; both parties will never be interviewed at the same time;

- d) relevant documentary and other evidence is compiled; and
- e) interviews are conducted with witnesses or other individuals who may have relevant evidence.

11.4.3 Either party may decline to be interviewed by the investigator and/or to provide relevant evidence. The investigation report will reflect that a party was given the opportunity to participate in the investigation but did not do so.

11.4.4 During the course of investigation, the investigator will keep the parties apprised of the status of the investigation and the expected time to completion. While the time to investigate and complete an investigation report will vary depending on the circumstances of the case, it is expected that investigation reports will be finalized within 60 calendar days.

11.4.5 Following completion of the investigation, the investigator will prepare a written report containing a detailed summary of the facts and evidence gathered. A complete copy of the investigation report will be provided to the complainant and respondent.

11.4.6 The complainant and respondent will be provided an opportunity to make written submissions with respect to the investigation report. Any submissions received by either party will be disclosed to the other.

11.4.7 At any time prior to the investigator's report being forwarded to the Vice-Provost Students, the complainant may request informal resolution. The role of the Vice-Provost Students throughout this policy may be performed by a delegate appointed by the Vice-Provost Students.

11.4.8 The investigation report and the submissions of the parties will be presented to the Vice-Provost Students for a decision as to whether based on a balance of probabilities there has been a breach of the policy. Prior to a decision being made, oral submissions may be undertaken as follows:

- a) At the request of one or both of the parties or at the discretion of the Vice-Provost Students.
- b) If oral submissions occur, the parties will not be required to be in the same room together when making submissions if they elect to provide oral submissions.
- c) The parties may have a support person present.
- d) The Vice-Provost Students may request to meet with the investigator and/or any witnesses prior to making a decision.

- e) If either party declines to participate in an oral submission, they will be provided with questions in writing from the Vice-Provost Students and will have the opportunity to provide written answers.
- f) If any new evidence is presented either orally or in writing, both parties may be given the opportunity to respond in writing prior to a decision being rendered.

11.4.9 Based on the investigation report and the submissions of the parties, the Vice-Provost Students will make one of the following decisions on a balance of probabilities:

- a) That the evidence supports a finding that the respondent violated this policy and that a particular sanction or penalty is imposed; or
- b) That the evidence does not support a finding that the respondent violated the policy and the complaint is therefore dismissed.

11.4.10 The Vice-Provost Students will set out a decision, in writing including a summary of the information relied upon in making the decision. This written decision will be provided to the complainant and respondent.

11.4.11 If the Vice-Provost Students determines that the policy has been breached and issues a penalty or sanction, the complainant will be provided with sufficient information regarding the precise nature of the penalty or sanction so as to maintain the complainant's ongoing safety and/or to reduce the possibility of contact between the parties.

12.Appeals of Decisions of the Vice-Provost Students

12.1 Grounds for Appeal

12.1.1 A respondent subject to sanctions following a decision under the policy may appeal the finding of breach of the policy and/or the sanctions imposed by the Vice-Provost Students if one or both of the following applies:

- a) A serious procedural error was made during processing of the complaint that caused prejudice to the respondent and/or might have affected the final outcome; and/or
- b) The decision is clearly unreasonable or unsupportable on the evidence and resulted in a sanction of suspension, expulsion, trespass from campus and/or deregistration.

12.1.2 A complainant may appeal a finding that no breach has occurred and/or the sanctions imposed by the Vice-Provost Students if one or both of the following applies:

- a) A serious procedural error was made during processing of the complaint that caused prejudice to the complainant and/or might have affected the final outcome; and/or
- b) The decision and/or sanction are clearly unreasonable or unsupportable on the evidence.

12.2 Appeal Panel and Hearing

12.2.1 An appeal of a decision under this part will be conducted by the University Tribunal in accordance with Part 11 of the Code of Student Rights and Responsibilities, save and except that the grounds for appeal listed in this policy shall supersede the grounds for appeal listed in Part 11(a)i-iv of the Code of Student Rights and Responsibilities.

- a) In general, appeals will be heard in writing and an oral hearing will proceed only in exceptional circumstances. Should a tribunal proceed with an oral hearing, the complainant would not be required to participate.
- b) The Appeal Panel will do a preliminary assessment of the written material before holding a hearing. If the Appeal Panel concludes that the appeal cannot succeed on any of the grounds provided in 12.1.1 or 12.1.2 above, the appeal may be dismissed without further processes such as either an oral hearing or further written hearing.
- c) An appeal hearing may be either a written or oral hearing at the determination of the Appeal Panel having regard to the circumstance in each particular appeal.
- d) If the Appeal Panel determines to proceed to an oral hearing, alternative methods of hearing testimony and asking questions will be used where potential traumatization of any party is a consideration.
- e) If any inconsistencies exist between this policy and the Student Code of Rights and Responsibility with respect to appeals, the provisions of this policy shall take precedence.

12.2.2 Tribunal members hearing complaints will be properly trained to conduct hearings into sexual violence matters.

13.Complaints Against Respondents Who are Both Students and Staff

13.1 In cases where the respondent is a student as well as a staff member (e.g. graduate student) and it is unclear what process applies, the Sexual Violence Response Team will determine if the complaint should be processed through the student complaint procedures or the employment complaint procedures having regard to the circumstances of the case and the interest in avoiding duplication of processes.

14.Complaints Against Staff or Faculty

14.1 In cases where the respondent is a faculty or staff member a complaint may be initiated through the Sexual Violence Response Office, which will ensure that the complaint is provided to the appropriate office under applicable collective agreements and University policies. The Sexual Violence Response Office will outline respective processes for the complainant.

15.Records of Investigations and Outcomes

15.1 Written records will be retained with respect to a complaint investigation and its resolution. The University will comply with all criminal legal subpoenas, civil court ordered requests for records, or as required under FIPPA.

16.Training and Education

16.1 The University will offer training and education to the University community aimed at preventing sexual violence and improving supports to survivors. This will include:

- a) Training on the content of the Sexual Violence Policy, including processes for responding to and addressing sexual violence, for members of the governing board and senior administrators; faculty, staff and other employees and contractors; and for students.
- b) Education initiatives for the University community to promote a change in the attitudes and behaviours that perpetuate sexual violence and to create a more supportive environment for survivors. These initiatives will take an intersectional and anti-oppression approach to addressing the issue of sexual violence and recognize different experiences of violence. Programming will aim to address systemic issues contributing to sexual violence and aim to challenge rape culture and other forms of discrimination and hate.

17. Authority to Amend Policy and Create Procedures

17.1 The President or delegate is authorized to amend the following aspects of this policy without the prior approval of the Board:

- a) the supports and services available at the University or in the community;
- b) the identity of officials, offices and departments at the University who can provide supports, services and/or accommodation; and
- c) the identity of officials, offices and departments at the University to whom reports of sexual violence should be made or who are involved in each stage of the investigation and decision-making processes.

17.2 The President or delegate is authorized to establish and amend procedures, protocols, or guidelines pursuant to this policy.

18. Policy Review and Amendment

18.1 This policy will be reviewed at least once every three years commencing from the date of its approval.

18.2 The review and amendment process will include consultation with representatives of the University's elected student governments and with consideration of input from a diverse selection of students as well as input from faculty and staff, including staff and faculty associations.

APPENDIX A

Campus Supports and Services (Students / Staff / Faculty)

Sexual Violence Response Office

416-736-5211 (24/7)
W128 Bennett Centre for Student Services
svro@yorku.ca
www.yorku.ca/sexual-violence-response

Centre for Human Rights

416-736-5682, Fax: 416-650-4823
2070 Victor Phillip Dahdaleh Building
rights@yorku.ca
www.yorku.ca/rights

goSAFE (Community Safety Department)

416-736-5454 or Ext. 55454
goSAFE@yorku.ca
<http://gosafe.info.yorku.ca/>

Security Services (Community Safety Department)

General Phone: 416-650-8000 or Ext. 58000
Urgent Phone: 416-736-5333 or Ext. 33333
228 William Small Centre
scc@yorku.ca
<http://security.info.yorku.ca/>

Supports and Services for Students

Office of Student Community Relations

416-736-5231, Fax: 416-736-5565
W128 Bennett Centre for Student Services
oscr@yorku.ca
<http://www.yorku.ca/oscr/>

Personal Counselling Services

416-736-5297
N110 Bennett Centre for Student Services
<http://pcs.info.yorku.ca/>

Sexual Assault Survivors' Support Line & Leadership (SASSL)

416-650-8056 (24/7 Peer Support)
416-736-2100 ext. 40345 (Office Line)
4th Floor of the Student Centre, Room B449
sassl@yorku.ca
<http://sassl.info.yorku.ca/#home>

Supports and Services for Staff / Faculty

Employee Assistance Program

1-800-268-5211, TTY: 1-800-363-6270
<http://hr.info.yorku.ca/>

Employee Wellbeing Office (Human Resources)

416-736-5491
Kinsmen Building, 8 Chimneystack Road
ewb@yorku.ca
<http://hr.info.yorku.ca/>

York University Psychology Clinic

416-650-8488
104 Behavioral Sciences Building
<http://www.yorku.ca/yupc/>

Union Supports and Services

To be added in final draft

External Support and Services

There are various supports and services available external to the York community.

Toronto Rape Crisis Centre/Multicultural Women Against Rape (TRCC/ MWAR)

416- 597-8808 (24/7 Crisis Line)
crisis@trccmwar.ca
<http://trccmwar.ca/>

Assaulted Women's Helpline

416-863-0511(24/7), TTY: 416-364-8762
Toll-Free: 1-866-863-0511, TTY: 1-866-863-7868

Fem'aide

1-877-336-2433
info@femaide.ca
<http://www.femaide.ca>

Good2Talk

1-866-925-5454

info@good2talk.ca

<http://www.good2talk.ca/>

Hassle Free Clinic

416-922-0566, Fax: 416-922-2018

66 Gerrard Street East, 2nd Floor, Toronto, ON

<http://hasslefreeclinic.org/>

Lesbian Gay Bi Trans Youth Line

1-800-268-9688, Text: 647-694-4275

<http://www.youthline.ca/>

Women's College Hospital Sexual Assault/Domestic Violence Care Centre (SA/DVCC)

416-323-6040, Fax: 416-323-6489

76 Grenville Street, Main floor, Toronto, ON

The Women's College Hospital SA/DV centre is located in the [Acute Ambulatory Care Unit \(AAU\)](#) on the 1st floor in Room 1305.

<http://www.womenscollegehospital.ca/programs-and-services/sexual-assault-domestic-violence-care-centre/>

Sunnybrook Hospital Bayview Campus

416-480-6100

2075 Bayview Avenue, Toronto, ON

York Central Hospital Domestic Abuse and Sexual Assault Care Centre (DASA)

905-883-1212

905-832-1406 – DASA ext. 2 (Information)

955 Major MacKenzie Dr, Richmond Hill, Ontario

<http://www.yorkcentral.com/main/contact.htm>

Independent Legal Advice for Sexual Assault Survivors Pilot Program

1-855-226-3904

<https://www.attorneygeneral.jus.gov.on.ca/english/ovss/ila.php>

Support Services for Male Survivors of Sexual Abuse Program

1-866-887-0015 – Information 1-888-579-2888

http://www.attorneygeneral.jus.gov.on.ca/english/ovss/male_support_services/

Oasis Centre des femmes (Francophone)

416-591-6565

services@oasisfemmes.org

<http://www.oasisfemmes.org/>

External Resources

Toronto Police Services

416-808-2222

<http://www.torontopolice.on.ca/>

York Region Police Services

1-866-876-5423

<https://www.yrp.ca/en/index.asp>

For information about supports, resources, and services available, contact the Sexual Violence Response Office.

Sexual Violence, Policy on

Legislative History: December 12, 2016; For Board Approval

Approval Authority: Board of Governors

Signature:

Description:

1. Purpose

- 1.1 This policy affirms York University's ongoing commitment to foster a culture where attitudes and behaviors that perpetuate sexual violence are rejected, survivors are supported, and those who commit incidents of sexual violence are held accountable. It replaces the Policy on Sexual Assault Awareness, Prevention and Response and the Sexual Harassment Policy.
- 1.2 The policy outlines the supports and services available to those affected by sexual violence, the processes in place to address reports of sexual violence, the rights and obligations of community members regarding sexual violence, and affirms the University's commitment to procedural fairness.

2. Scope and Application

- 2.1 This policy applies to York University community members including but not limited to students, staff, administrators, faculty, librarians, members of the Board of Governors and Senate, adjunct and visiting faculty, postdoctoral fellows, volunteers, contractors, and invited guests.
- 2.2 Any community member who has experienced sexual violence may access supports through the Sexual Violence Response Office. Supports are available to community members regardless of where or when an incident has taken place. A formal complaint is not necessary in order to access support.
- 2.3 The complaint process is available to all York community members whether the sexual violence occurred on campus, off campus or using social media.
- 2.4 It is a violation of this policy for a York community member to commit an act of sexual violence against another York community member.

2.5 Other University policies and procedures relevant to the subject of sexual violence include:

- [Code of Student Rights and Responsibilities](#)
- [Occupational Health and Safety Policy](#)
- [Workplace Violence Policy and Program](#)
- [Workplace Harassment Policy and Program](#)

2.6 In the event of any conflict between this policy and other University policies or procedures, this policy will prevail.

2.7 This policy is not intended to supersede or interfere with collective agreements or prevailing laws and does not preclude those experiencing sexual violence from seeking recourse through criminal or civil proceedings.

3. Definitions

Complaint:

A formal report of sexual violence being filed with the Sexual Violence Response Office.

Complainant:

An individual directly impacted by sexual violence or a University representative who has filed a report under this policy.

Consent:

- a) Consent means active, ongoing, informed, and voluntary agreement to engage in sexual activity; it cannot be implied or assumed.
- b) Consent cannot be given by someone who is incapacitated, unconscious, intoxicated, or otherwise incapable of consenting;
- c) Consent can be withdrawn anytime;
- d) Consent cannot be obtained through threats, coercion, or other forms of control and intimidation, which includes coercion through abuse of a position of trust, power, or authority and;
- e) It is the responsibility of the person who wishes to initiate sexual activity to obtain consent from the other person(s) involved.
- f) The definition of consent does not vary based on a person's sex, sexual orientation, gender identity or gender expression.

Disclosure:

When an individual who has experienced sexual violence confides in someone about their experience. Disclosure is presumed to be for the purpose of obtaining support and services and/or to learn about options to make a formal report but is different from reporting.

Imminent Risk:

An assessment that an act of harm to an individual or individuals is about to occur or that there is a compelling likelihood that an act of harm will occur.

Rape Culture:

A culture which normalizes, trivializes, and excuses sexual violence or blames survivors for having experienced sexual violence; it can be expressed through dominant societal ideas, prevalent attitudes, social practices, media content, or through institutions which condone sexual violence either implicitly or explicitly.

Report:

When an individual who has experienced sexual violence informs the Sexual Violence Response Office about their experience through a formal process that involves an expectation that formal action will be taken against the respondent. A report includes particulars of the sexual violence (e.g. names, date, details of what occurred). Reports can be made internally to the University or externally to bodies such as police services, the Criminal Injuries Compensation Board, the Human Rights Commission, or through civil actions.

Respondent:

The person whose actions are reported to constitute sexual violence.

Sexual Assault:

Any sexual contact made by a person towards another where consent is not first obtained. It is characterized by a broad range of sexual acts, carried out in circumstances in which the person has not freely consented to or is incapable of consenting to sexual activity. Under the Criminal Code of Canada, it has been interpreted as an actual or threatened advance, gesture, touch, or any other sexual act to which an individual has not consented. It includes a person being forced to perform sexual acts against their will. It is determined by a lack of consent, and not by the act itself.

Sexual Harassment:

- a) Unwanted sexual attention of a persistent or abusive nature, made by a person who knows or ought reasonably to know that such attention is unwanted;
- b) The making of an implied or express promise of reward for complying with a sexually oriented request;
- c) The making of an implied or express threat of reprisal, in the form of actual reprisal or the denial of opportunity, for refusal to comply with a sexually oriented request; and/or
- d) Sexually oriented remarks and behaviour which may reasonably be perceived to create a negative psychological and emotional environment for work and study.

Sexual Violence:

Any sexual act or act targeting a person's sexuality, gender identity or gender expression, whether the act is physical or psychological in nature, that is committed, threatened or attempted against a person without the person's consent and includes sexual assault, sexual harassment, stalking, indecent exposure, voyeurism and sexual exploitation.

Sexual Violence Response Office (SVRO):

The university office with primary responsibility to assist persons affected by sexual violence. The Sexual Violence Response Office coordinates supports and resources for those who have experienced sexual violence, receives disclosures and complaints, facilitates safety planning, and assists survivors through the complaint process.

Sexual Violence Response Team:

A group of University personnel that ensures appropriate support and services are provided and coordinates effective responses to incidents of sexual violence and conducts risk assessments related to sexual violence. The team is composed of representatives of the Sexual Violence Response Office, Community Safety Department, Office of Student Community Relations, Security Services, Personal Counselling Services, [Residence Life](#) and, in cases involving faculty or staff, relevant Human Resources and/or Faculty Relations representatives.

Support person:

A union representative, legal counsel, friend, relative or other person who accompanies an individual reporting sexual violence during the investigation and/or adjudication process.

Survivor:

Someone who has experienced sexual violence. [\(Although the term survivor is used throughout the Policy, the individual who has experienced sexual violence has the right to determine how they choose to identify and recognize their own experience.\)](#)

University Community Member:

A student, staff, administrator, faculty, librarian, member of the Board of Governors or Senate, adjunct or visiting faculty, postdoctoral fellow, volunteer, contractor or invited guest.

Workplace Sexual Harassment:

- a) engaging in a course of vexatious comment or conduct against a worker in a workplace because of sex, sexual orientation, gender identity or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome, and/or
- b) making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or

advancement to the worker and the person knows or ought reasonably to know that the solicitation or advance is unwelcome.

4. Commitment and Statement of Principles

- 4.1 York University recognizes that universities can play a significant role in preventing sexual violence, supporting survivors, and holding perpetrators accountable. York University is committed to providing and maintaining an environment in which sexual violence is recognized to be unacceptable and is not tolerated.
- 4.2 York University recognizes that anyone can experience sexual violence. Individuals may encounter increased vulnerabilities based on intersectional aspects of their identity or perceived identity including such factors as race, Indigeneity, economic status, gender identity, gender expression, sexual orientation, language, age, ancestry, ethnicity, ability, faith and/or immigration status. Survivors can also experience many barriers to disclosing, reporting, and/or seeking support; barriers can differ based on the lived experience of the survivor. York University strives to reduce these barriers in order to better support survivors in the community. Some acts of sexual violence are motivated by sexism, racism, colonialism, ableism, homophobia and transphobia, as part of a wider societal context that includes patriarchy, whiteness, and colonization as contributors to acts of sexual violence. The Sexual Violence Response Office will work with survivors to determine the appropriate supports and accommodations required based on the individual survivor's experiences and expressed needs.
- 4.3 York University will provide a range of supports and services to individuals affected by sexual violence regardless of where or when such incidents occur and will, to the extent possible, ensure survivors can self-determine the supports and services they wish to access and whether they wish to contact police.
- 4.4 York University will appropriately accommodate the needs of individuals affected by sexual violence, relating to work, study, housing, or extra-curricular activities.
- 4.5 York University recognizes that confidentiality is key to create an environment and culture where survivors feel safe to disclose and seek support and accommodation.
- 4.6 York University is committed to providing on-going training, education, and initiatives aimed at changing attitudes and behaviors that perpetuate sexual violence. The University will support these initiatives through dedicated staff, programming, and related University resources. The University will broadly

communicate these initiatives and effectively respond to the needs of the diverse members of the University community.

- 4.7 The University recognizes the extreme impact that rape culture has on society and will work collaboratively with its community to develop educational programs around this serious systemic issue.
- 4.8 Reports of sexual violence will be dealt with through University complaint procedures and any community member who is found to have committed sexual violence shall be held accountable and subject to sanctions and discipline up to and including expulsion and/or termination of employment where appropriate.
- 4.9 All University officials in any way associated with the implementation of this policy are required to ensure timeliness of response in order to reduce the time required to access supports, services, and accommodations, as well as to ensure the timely resolution of complaints.
- 4.10 York is committed to ensuring that its processes for addressing sexual violence are designed to promote fair, just and timely resolution for those filing complaints and for those against whom complaints are made. Both parties will be provided with information explaining the process.
- 4.11 York University recognizes the traumatic effects of sexual violence and is committed to providing appropriate support and information about options available to survivors. York strives for survivors to:
 - Be treated with compassion, dignity, and respect;
 - Be provided with non-judgmental and empathic support;
 - Have confidentiality maintained and any limits to confidentiality explained;
 - Be informed of the procedures in place to address sexual violence;
 - Be provided with timely safety planning assistance;
 - Be informed about on and off-campus supports and services available to them; and to receive survivor-driven supports and services appropriate to their social identities including race, Indigeneity, economic status, gender identity, gender expression, sexual orientation, language, age, ancestry, ethnicity, ability, faith and/or immigration status;
 - Be provided with necessary academic, workplace, extracurricular and/or housing/dining accommodations as appropriate;
 - Decide whether to pursue criminal or non-criminal reporting options subject to the limits described in this policy;

- Determine what and how much they choose to disclose and to whom;
- Have reasonable and necessary actions taken to prevent further unwanted contact with the respondent;
- Have options for reporting and/or filing a complaint outlined clearly; and
- Wherever possible, retain control over the matter and any decisions pertaining to their experience including reporting to police.

5. Confidentiality

- 5.1 The University recognizes the importance of protecting confidentiality in order to provide an environment in which survivors can disclose sexual violence and obtain support and to ensure reports of sexual violence can be addressed in a fair manner.
- 5.2 The University will make every reasonable effort to maintain confidentiality when it becomes aware of an incident of sexual violence. It will limit disclosure of information to those within the University who need to know for the purposes of providing support and addressing incidents.
- 5.3 Disclosures and reports of sexual violence made to the University are considered confidential and are treated in accordance with the *Freedom of Information and Protection of Privacy Act* and relevant collective agreements. Information regarding disclosures and reports will only be shared with those individuals who have a critical need to know to carry out functions appropriate to an individual's or unit's responsibility to properly address an incidence of sexual violence or as required by law. To the extent possible, the identity of the survivor and the responding person will be anonymized.
- 5.4 The University may be unable to guarantee complete confidentiality if:
- a) an individual is assessed to be at imminent risk of harm to self;
 - b) an individual is assessed to be at imminent risk of harming an identified person;
 - c) there is reason to believe that members of the University community or the broader community may be at imminent risk of harm; and/or
 - d) the University is obligated to investigate or some other reporting/action is required by law (e.g. incidents involving a minor, or requirements under occupational health and safety or human rights legislation).
- 5.5 This list is the exception to the foundational rule of confidentiality and is necessary to ensure the University can act in the interests of the safety of the community and to meet related legal obligations.

- 5.6 In cases where complete confidentiality cannot be maintained, the community member disclosing will be advised at the first available opportunity. Further, efforts will be made to limit the amount of information that is shared and the number of individuals with whom it is shared.
- 5.7 The University will treat complaints and their investigation as confidential and will not release any information unless required to do so by law or as indicated in this policy. Provision of information to witnesses during investigations will be limited to what is reasonably necessary to conduct a fair and thorough investigation. Participants in an investigation including witnesses and support persons will be advised of the need to maintain confidentiality to protect the integrity of the investigation and will be advised to refrain from discussing the matter during the investigation and adjudication process. The obligation to keep information confidential does not prevent a person from pursuing counselling and/or other support services, including personal support networks for either the complainant or respondent.
- 5.8 The University through the Sexual Violence Response Office will collect data with respect to incidents of sexual violence for the purpose of research, compliance with statutory reporting requirements or similar purposes.

6. Supports and Services

6.1 For Those Affected by Sexual Violence

- 6.1.1 A number of supports and services are available to community members affected by sexual violence, irrespective of when or where the incident(s) occurred. The Sexual Violence Response Office will maintain an up-to-date list of supports and services offered by the University and in the community. The University will publicize the availability of this information broadly to members of the University community through <http://www.yorku.ca/sexual-violence-response>
- 6.1.2 A list of supports and services currently available at the University and in the community is found at Appendix A of this Policy.
- 6.1.3 It is not necessary to file a report or complaint in order to access the services provided by the University. Equally, accessing these services does not constitute filing a report or complaint to the University.

6.2 For Respondents

- 6.2.1 Supports and services are also available to respondents through the Office of Student Community Relations for students and through Employee Well Being Office for staff and faculty. Staff and faculty associations are also available to provide supports respectively.

7. Sexual Violence Response Office (SVRO)

7.1 The Sexual Violence Response Office facilitates support, services and accommodations based on the circumstances of the incident and the needs and wishes of the person disclosing and/or reporting. The Sexual Violence Response Office is available to:

- a) Facilitate referrals to University resources and community agencies;
 - b) Coordinate referral to medical services;
 - c) Coordinate academic/workplace accommodations through respective offices;
 - d) Coordinate housing relocation for students on campus;
 - e) Assist with the coordination of safety planning;
 - f) Coordinate access to emergency housing;
 - g) Coordinate emergency financial assistance;
 - h) Coordinate referrals to on and off campus trauma-informed counselling services;
 - i) Provide information about reporting options;
 - j) Assist with decision-making and navigating University processes;
 - k) Manage the flow of information among departments or offices where necessary;
 - l) Coordinate with other institutions where a student may be cross-registered to ensure access to supports and accommodations; and
 - m) Provide effective and ongoing support for survivors with respect to support, services, accommodations, and complaint procedures.
- Wherever needed, the Sexual Violence Response Office advocates on behalf of survivors to ensure the needs of survivors are met at all times.

7.2 The Sexual Violence Response Office can provide confidential assistance in a case where an individual has made a disclosure of sexual violence, but does not wish to file a report. The Sexual Violence Response Office is also responsible for receiving all reports by community members.

7.3 The Sexual Violence Response Office may decide to engage the Sexual Violence Response Team to:

- a) conduct a risk assessment;
- b) assess the appropriate academic, employment and/or other accommodations the survivor may require;
- c) assess whether interim measures should be pursued against the respondent; and/or

- d) in situations where the person affected does not wish to pursue a complaint, determine whether there is an overriding safety or security reason for the University to pursue a complaint. In making this determination, the Sexual Violence Response Team will consider all relevant circumstances including, but not limited to:
 - i. the severity of the incident and the harm inflicted,
 - ii. the potential risk to other members of the community,
 - iii. the location of and circumstances in which the incident took place, and
 - iv. the likelihood of effective resolution without the involvement of the person who experienced sexual violence.

7.4 When the Sexual Violence Response team determines the University will pursue a complaint, it is always the choice of the survivor whether to participate in any investigation or complaint process.

7.5 In making decisions with respect to staff or faculty, the Sexual Violence Response Team shall bear in mind provisions of the respective collective agreement(s).

8. Disclosure

8.1 Disclosure occurs when an individual who has experienced sexual violence confides in someone about the experience. Disclosure can assist an individual in seeking out support and services and to learn about options available to assist them including options to make a formal report. Survivors determine when, what, and how much they choose to disclose.

8.2 Every survivor is entitled to decide whether or not to disclose or report an experience of sexual violence. Subject to the limits of confidentiality described in the Confidentiality section of this policy, the University will support a survivor's right to decide whether to pursue a complaint.

8.3 The University recognizes that some individuals may be hesitant to disclose or report sexual violence in cases where they have been drinking while under age or were using drugs at the time the sexual violence took place. A survivor or community member acting in good faith who discloses or reports sexual violence will not be subject to actions for violations of the University's policies related to drug and alcohol use at the time that the sexual violence took place.

8.4 Disclosures may be made to any community member. Disclosures may relate to a respondent who is or is not a member of the University community and may relate to incidents that are current or that occurred at any time in the past.

- 8.5 All members of the University community to whom sexual violence is disclosed have a duty to advise the individual disclosing of this Policy and the existence of the Sexual Violence Response Office. Any community member other than a professional counsellor receiving a disclosure should contact the Sexual Violence Response Office to inform the office that they have received a disclosure and may do so without sharing the identity of the individual making the disclosure if they do not have the consent of the survivor. Sexual Violence Response Office can also provide support and resources to community members receiving a disclosure.
- 8.6 While disclosure may be made to any community member, survivors are encouraged to contact the Sexual Violence Response Office directly. The Office will provide, on a confidential basis, assistance in obtaining supports and services as well as information regarding options for reporting the incident.

9. Reporting

9.1 Emergency Reporting

- 9.1.1 If someone is at immediate risk of harm, community members are encouraged to call emergency services at 911 immediately, and then contact Security Services at 416-736-5333 or ex. 33333.
- 9.1.2 If Security Services is advised of an incident, they may report the matter to Police Services in circumstances of imminent risk of harm as described in Section 5 above. Persons affected may be contacted by police as part of their investigation into the matter.
- 9.1.3 Security Services will inform the Sexual Violence Response Office of any incident reported to it, which may follow-up with persons affected.
- 9.1.4 The University may issue a Security Bulletin in accordance with the respective protocol to inform community members of an ongoing risk related to an incidence of sexual violence.

9.2 Reporting Generally

- 9.2.1 Reporting to the University occurs when an individual who has experienced sexual violence pursues a formal process through the Sexual Violence Response Office that involves an expectation that action be taken against the respondent.
- 9.2.2 Reporting sexual violence to the University does not prevent a person from reporting through the criminal justice system (i.e. police) or through other available processes such as to the Human Rights Tribunal of Ontario, the Criminal Injuries Compensation Board or through the civil

courts. Equally, reporting through police or other mechanisms does not prevent a person from also reporting to the University.

- 9.2.3 The decision to report sexual violence is the choice of the person affected. In addition, that individual has the right to subsequently withdraw the complaint at any time and has the right not to participate in any University investigation. If a complaint is withdrawn, University supports and accommodations are still available for both the complainant and respondent.
- 9.2.4 No one is entitled to either directly or indirectly intimidate, threaten, coerce, discriminate against, harass, retaliate, or engage in reprisals against an individual who is:
- a) reporting an incident of, or making a complaint about sexual violence, or
 - b) participating in or has co-operated with an investigation under this Policy.
- 9.2.5 The University may institute measures it considers appropriate to prevent reprisal such as separating the parties to a complaint in the academic, work or housing environment or prohibiting communication between the parties pending the complaint process. Anyone engaged in reprisal or who violates the University's direction may be subject to sanctions and/or discipline including possible termination or expulsion from the University.
- 9.2.6 Reporting to police services will only be made with the informed consent of the survivor, unless there has been an assessed imminent risk of harm as outlined in Section 5. Reporting to the police or to other external agencies (e.g. Ontario Human Rights Tribunal) is the only way to formally seek redress against a respondent who is not a member of the University community.
- 9.2.7 Those reporting will be provided with information regarding supports, services, safety planning, and accommodation, University complaints processes and other options for reporting having regard to the circumstances of the case. The Sexual Violence Response Office can facilitate making a complaint.

10. Complaint Process

- 10.1 The Sexual Violence Response Office is responsible for receiving all non-emergency reports of sexual violence. Any community member who experienced sexual violence by another community member may commence the reporting process by contacting the Sexual Violence Response Office in person or [electronically](#).
- 10.2 A complaint is finalized on the date on which it is received by the University in writing and signed by the complainant. The complaint will include the following:
 - a) name of the Complainant
 - b) name of the Respondent (if known); and
 - c) a description of the [particulars incident\(s\)](#) including [but not limited to](#) date(s), time and location where the incident(s) occurred.
- 10.3 The Complainant will be provided with a copy of the complaint.
- 10.4 The University has the jurisdiction to investigate reports made against a community member and will do so as expeditiously as possible.
- 10.5 Complaints involving staff or faculty respondents will be processed in accordance with the applicable collective agreement and/or university policy or program.
- 10.6 Throughout the complaint process, complainants, and respondents have the right to be accompanied by a support person, who must also adhere to the confidentiality requirements of the process.
- 10.7 Complainants and respondents will be provided with appropriate procedural fairness throughout the process.
- 10.8 A complaint may be filed if the respondent is a community member at the time of the incident reported in the complaint. A complaint process may continue after the complainant's relationship to or with the University ends if the respondent continues to be a member of the University community. If the respondent's relationship to or with the University ends before the complaint process has been completed, the process may be suspended. The process may resume if the respondent returns to the University at a future date.
- 10.9 The filing of a complaint under this Policy is independent of any criminal investigation or proceeding (i.e. a person may report an incident to both the University and the police). The University's investigation and decision-making may be suspended pending in the outcome of the criminal proceeding. However, the University may take interim measures as it considers necessary

to protect the complainant and/or the University community pending the outcome.

11.Complaints Against Students

11.1 Preliminary Assessment

- 11.1.1 After a complaint is filed, it will be transmitted to the Sexual Violence Response Team for preliminary assessment. The Sexual Violence Response Team will assess whether the complaint falls within the jurisdiction of this policy. If the Sexual Violence Response Team determines that the complaint is outside the jurisdiction of the policy or that the matter should not be investigated, it will provide written notice of that decision to the complainant.
- 11.1.2 A Complainant may request reconsideration of a decision by the Sexual Violence Response Team that a complaint will not be investigated. A request for reconsideration must be made in writing within 45 calendar days of receipt of the written notice of decision and must be submitted to the Vice-Provost Students for decision.
- 11.1.3 Requests for reconsideration may be facilitated through the Sexual Violence Response Office.

11.2 Complaint Resolution

- 11.2.1 If the Sexual Violence Response Team determines that the complaint should be processed through the complaint procedure of this policy, it will refer the complaint to the Centre for Human Rights (CHR) for processing.
- 11.2.2 The Sexual Violence Response Team may impose interim measures as it considers necessary to ensure safety of the person reporting or others in the community, to reduce contact between the parties, to prevent retaliation or to avoid a hostile environment. Interim measures may include “no contact” orders, and/or changes in academic, extracurricular, housing, dining, employment or other arrangements. Both the respondent and the complainant may request modifications to the interim measures and may make a written submission in support of their request. Requests for modifications will be submitted to the Centre for Human Rights, which will bring the matter to the Sexual Violence Response Team for consideration.

11.2.3 Centre for Human Rights will ensure a copy of the complaint is promptly forwarded to the respondent who will be provided with an opportunity to submit a written response.

11.3 Informal Resolution

11.3.1 Many cases of sexual violence are not well suited to alternative resolution. However, there may be instances in which the complainant and respondent wish to pursue informal resolution through mediation/facilitation, restorative justice, or similar methods.

11.3.2 The Sexual Violence Response Office will provide information to the complainant regarding informal resolution options and the Centre for Human Rights will provide information to the respondent regarding informal resolution options. Participation in informal resolution is voluntary and either party may withdraw from the process at any time.

11.4 Formal Resolution

11.4.1 When a decision is made that formal resolution is the appropriate course of action the Centre for Human Rights will appoint an investigator to conduct a full investigation. The investigator may be an individual internal to the University or an external person retained for this purpose. The investigator will be properly trained to conduct investigations into sexual violence complaints, trauma-informed investigations, and the potential impact of intersectional identities on how sexual violence is experienced. The complainant and the respondent will be informed that they may have a support person present during the investigation process.

11.4.2 The steps taken to investigate a complaint may vary but will generally involve the following:

- a) the complainant and the respondent are informed in writing that an investigation is being undertaken, describing the allegations and the possible sanctions.
- b) the respondent is given the opportunity to provide a written response to the complaint and the complainant has the opportunity to reply to the written response;
- c) the investigator conducts one or more separate interviews with the complainant and respondent to obtain any additional information, documents, names of witnesses and other evidence that may be considered relevant; both parties will never be interviewed at the same time;

- d) relevant documentary and other evidence is compiled; and
- e) interviews are conducted with witnesses or other individuals who may have relevant evidence.

11.4.3 Either party may decline to be interviewed by the investigator and/or to provide relevant evidence. The investigation report will reflect that a party was given the opportunity to participate in the investigation but did not do so.

11.4.4 During the course of investigation, the investigator will keep the parties apprised of the status of the investigation and the expected time to completion. While the time to investigate and complete an investigation report will vary depending on the circumstances of the case, it is expected that investigation reports will be finalized within 60 calendar days.

11.4.5 Following completion of the investigation, the investigator will prepare a written report containing a detailed summary of the facts and evidence gathered. A complete copy of the investigation report will be provided to the complainant and respondent.

11.4.6 The complainant and respondent will be provided an opportunity to make written submissions with respect to the investigation report. Any submissions received by either party will be disclosed to the other.

11.4.7 At any time prior to the investigator's report being forwarded to the Vice-Provost Students, the complainant may request informal resolution. The role of the Vice-Provost Students throughout this policy may be performed by a delegate appointed by the Vice-Provost Students.

11.4.8 The investigation report and the submissions of the parties will be presented to the Vice-Provost Students for a decision as to whether based on a balance of probabilities there has been a breach of the policy~~an act of sexual violence~~. Prior to a decision being made, oral submissions may be undertaken as follows:

- a) At the request of one or both of the parties or at the discretion of the Vice-Provost Students.
- b) If oral submissions occur, the parties will not be required to be in the same room together when making submissions if they elect to provide oral submissions.
- c) The parties may have a support person present.
- d) The Vice-Provost Students may request to meet with the investigator and/or any witnesses prior to making a decision.

- e) If either party declines to participate in an oral submission, they will be provided with questions in writing from the Vice-Provost Students and will have the opportunity to provide written answers.
- f) If any new evidence is presented either orally or in writing, both parties may be given the opportunity to respond in writing prior to a decision being rendered.

11.4.9 Based on the investigation report and the submissions of the parties, the Vice-Provost Students will make one of the following decisions on a balance of probabilities:

- a) That the evidence supports a finding that the respondent violated this policy and that a particular sanction or penalty is imposed; or
- b) That the evidence does not support a finding that the respondent violated the policy and the complaint is therefore dismissed.

11.4.10 The Vice-Provost Students will set out a decision, in writing including a summary of the information relied upon in making the decision. This written decision will be provided to the complainant and respondent.

11.4.11 If the Vice-Provost Students determines that the policy has been breached and issues a penalty or sanction, the complainant will be provided with sufficient information regarding the precise nature of the penalty or sanction so as to maintain the complainant's ongoing safety and/or to reduce the possibility of contact between the parties.

12.Appeals of Decisions of the Vice-Provost Students

12.1 Grounds for Appeal

12.1.1 A respondent subject to sanctions following a decision under the policy may appeal the finding of breach of the policy and/or the sanctions imposed by the Vice-Provost Students if one or both of the following applies:

- a) A serious procedural error was made during processing of the complaint that caused prejudice to the respondent and/or might have affected the final outcome; and/or
- b) The decision is clearly unreasonable or unsupportable on the evidence and resulted in a sanction of suspension, expulsion, trespass from campus and/or deregistration.

12.1.2 A complainant may appeal a finding that no breach has occurred and/or the sanctions imposed by the Vice-Provost Students if one or both of the following applies:

- a) A serious procedural error was made during processing of the complaint that caused prejudice to the respondent and/or might have affected the final outcome; and/or
- b) The decision and/or sanction are clearly unreasonable or unsupportable on the evidence.

12.2 Appeal Panel and Hearing

12.2.1 An appeal of a decision under this part will be conducted by the University Tribunal in accordance with Part 11 of the Code of Student Rights and Responsibilities, save and except that the grounds for appeal listed in this policy shall supersede the grounds for appeal listed in Part 11(a)i-iv of the Code of Student Rights and Responsibilities.

- a) In general, appeals will be heard in writing and an oral hearing will proceed only in exceptional circumstances. Should a tribunal proceed with an oral hearing, the complainant would not be required to participate.
- b) The Appeal Panel will do a preliminary assessment of the written material before holding a hearing. If the Appeal Panel concludes that the appeal cannot succeed on any of the grounds provided in 12.1.1 or 12.1.2 above, the appeal may be dismissed without further processes such as either an oral hearing or further written hearing.
- c) An appeal hearing may be either a written or oral hearing at the determination of the Appeal Panel having regard to the circumstance in each particular appeal.
- d) If the Appeal Panel determines to proceed to an oral hearing, alternative methods of hearing testimony and asking questions will be used where potential traumatization of any party is a consideration.
- e) If any inconsistencies exist between this policy and the Student Code of Rights and Responsibility with respect to appeals, the provisions of this policy shall take precedence.

12.2.2 Tribunal members hearing complaints will be properly trained to conduct hearings into sexual violence matters.

13.Complaints Against Respondents Who are Both Students and Staff

13.1 In cases where the respondent is a student as well as a staff member (e.g. graduate student) and it is unclear what process applies, the Sexual Violence Response Team will determine if the complaint should be processed through the student complaint procedures or the employment complaint procedures having regard to the circumstances of the case and the interest in avoiding duplication of processes.

14.Complaints Against Staff or Faculty

14.1 In cases where the respondent is a faculty or staff member a complaint may be initiated through the Sexual Violence Response Office, which will ensure that the complaint is provided to the appropriate office under applicable collective agreements and University policies. The Sexual Violence Response Office will outline respective processes for the complainant.

15.Records of Investigations and Outcomes

15.1 Written records will be retained with respect to a complaint investigation and its resolution. The University will comply with all criminal legal subpoenas, civil court ordered requests for records, or as required under FIPPA.

16.Training and Education

16.1 The University will offer training and education to the University community aimed at preventing sexual violence and improving supports to survivors. This will include:

- a) Training on the content of the Sexual Violence Policy, including processes for responding to and addressing sexual violence, for members of the governing board and senior administrators; faculty, staff and other employees and contractors; and for students.
- b) Education initiatives for the University community to promote a change in the attitudes and behaviours that perpetuate sexual violence and to create a more supportive environment for survivors. These initiatives will take an intersectional and anti-oppression approach to addressing the issue of sexual violence and recognize different experiences of violence. Programming will aim to address systemic issues contributing to sexual violence and aim to challenge rape culture and other forms of discrimination and hate.

17. Authority to Amend Policy and Create Procedures

17.1 The President or delegate is authorized to amend the following aspects of this policy without the prior approval of the Board:

- a) the supports and services available at the University or in the community;
- b) the identity of officials, offices and departments at the University who can provide supports, services and/or accommodation; and
- c) the identity of officials, offices and departments at the University to whom reports of sexual violence should be made or who are involved in each stage of the investigation and decision-making processes.

17.2 The President or delegate is authorized to establish and amend procedures, protocols, or guidelines pursuant to this policy.

18. Policy Review and Amendment

18.1 This policy will be reviewed at least once every three years commencing from the date of its approval.

18.2 The review and amendment process will include consultation with representatives of the University's elected student governments and with consideration of input from a diverse selection of students as well as input from faculty and staff, including staff and faculty associations.

APPENDIX A

Campus Supports and Services (Students / Staff / Faculty)

Sexual Violence Response Office

416-736-5211 (24/7)
W128 Bennett Centre for Student Services
svro@yorku.ca
www.yorku.ca/sexual-violence-response

Centre for Human Rights

416-736-5682, Fax: 416-650-4823
2070 Victor Phillip Dahdaleh Building
rights@yorku.ca
www.yorku.ca/rights

goSAFE (Community Safety Department)

416-736-5454 or Ext. 55454
goSAFE@yorku.ca
<http://gosafe.info.yorku.ca/>

Security Services (Community Safety Department)

General Phone: 416-650-8000 or Ext. 58000
Urgent Phone: 416-736-5333 or Ext. 33333
228 William Small Centre
scc@yorku.ca
<http://security.info.yorku.ca/>

Supports and Services for Students

Office of Student Community Relations

416-736-5231, Fax: 416-736-5565
W128 Bennett Centre for Student Services
oscr@yorku.ca
<http://www.yorku.ca/oscr/>

Personal Counselling Services

416-736-5297
N110 Bennett Centre for Student Services
<http://pcs.info.yorku.ca/>

Sexual Assault Survivors' Support Line & Leadership (SASSL)

416-650-8056 (24/7 Peer Support)
416-736-2100 ext. 40345 (Office Line)
4th Floor of the Student Centre, Room B449
sassl@yorku.ca
<http://sassl.info.yorku.ca/#home>

Supports and Services for Staff / Faculty

Employee Assistance Program

1-800-268-5211, TTY: 1-800-363-6270
<http://hr.info.yorku.ca/>

Employee Wellbeing Office (Human Resources)

416-736-5491
Kinsmen Building, 8 Chimneystack Road
ewb@yorku.ca
<http://hr.info.yorku.ca/>

York University Psychology Clinic

416-650-8488
104 Behavioral Sciences Building
<http://www.yorku.ca/yupc/>

Union Supports and Services

To be added in final draft

External Support and Services

There are various supports and services available external to the York community.

Toronto Rape Crisis Centre/Multicultural Women Against Rape (TRCC/ MWAR)

416- 597-8808 (24/7 Crisis Line)
crisis@trccmwar.ca
<http://trccmwar.ca/>

Assaulted Women's Helpline

416-863-0511(24/7), TTY: 416-364-8762
Toll-Free: 1-866-863-0511, TTY: 1-866-863-7868

Fem'aide

1-877-336-2433
info@femaide.ca
<http://www.femaide.ca>

Good2Talk

1-866-925-5454

info@good2talk.ca

<http://www.good2talk.ca/>

Hassle Free Clinic

416-922-0566, Fax: 416-922-2018

66 Gerrard Street East, 2nd Floor, Toronto, ON

<http://hasslefreeclinic.org/>

Lesbian Gay Bi Trans Youth Line

1-800-268-9688, Text: 647-694-4275

<http://www.youthline.ca/>

Women's College Hospital Sexual Assault/Domestic Violence Care Centre (SA/DVCC)

416-323-6040, Fax: 416-323-6489

76 Grenville Street, Main floor, Toronto, ON

The Women's College Hospital SA/DV centre is located in the [Acute Ambulatory Care Unit \(AAU\)](#) on the 1st floor in Room 1305.

<http://www.womenscollegehospital.ca/programs-and-services/sexual-assault-domestic-violence-care-centre/>

Sunnybrook Hospital Bayview Campus

416-480-6100

2075 Bayview Avenue, Toronto, ON

York Central Hospital Domestic Abuse and Sexual Assault Care Centre (DASA)

905-883-1212

905-832-1406 – DASA ext. 2 (Information)

955 Major MacKenzie Dr, Richmond Hill, Ontario

<http://www.yorkcentral.com/main/contact.htm>

Independent Legal Advice for Sexual Assault Survivors Pilot Program

1-855-226-3904

<https://www.attorneygeneral.jus.gov.on.ca/english/ovss/ila.php>

Support Services for Male Survivors of Sexual Abuse Program

1-866-887-0015 – Information 1-888-579-2888

http://www.attorneygeneral.jus.gov.on.ca/english/ovss/male_support_services/

Oasis Centre des femmes (Francophone)

416-591-6565

services@oasisfemmes.org

<http://www.oasisfemmes.org/>

External Resources

Toronto Police Services

416-808-2222

<http://www.torontopolice.on.ca/>

York Region Police Services

1-866-876-5423

<https://www.yrp.ca/en/index.asp>

For information about supports, resources, and services available, contact the Sexual Violence Response Office.