



Policy Title:

# Sexual Violence Prevention Policy

University Classification & Policy Number:

B-001

Approval Body:

Board of Regents

Responsible Designate:

The Associate Vice-President, Human Resources is responsible for the development, administration, and review of this Policy.

Established:

06/18/2018

Revised:

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Not applicable

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2022

## 1.0 Preamble

- 1.01 The University of Winnipeg is committed to creating a safe and healthy environment for all members of its community. The University recognizes its responsibility to take a proactive role focused on raising awareness and educating the UW Community on Sexual Violence; and have policies and procedures in place to effectively respond to Disclosures or Reports of Sexual Violence.
- 1.02 Sexual Violence jeopardizes the welfare of all members of the UW Community and their ability to participate in a positive learning, living, social, recreational, and working environment. Sexual Violence is unacceptable and prohibited conduct at the University of Winnipeg. This policy sets out the University framework and strategy to address Sexual Violence.

## 2.0 Purpose

- 2.01 The purpose of this policy is, in accordance with *The Sexual Violence Awareness and Prevention Act*, to:
- raise awareness of Sexual Violence, including Sexual Violence through the use of Social Media or other forms of digital communications;
  - address issues related to Consent in respect to persons engaging in sexual activities;
  - address training on issues of Sexual Violence;
  - outline provisions respecting the prevention of incidents of Sexual Violence;
  - explain the process, options, supports, and services for Disclosing Sexual Violence; and
  - establish Reporting and response procedures for incidents of Sexual Violence.

## 3.0 Principles

- 3.01 This policy recognizes the particular ways that Rape Culture condones, normalizes, and trivializes Sexual Violence, that Survivors of Sexual Violence are often discredited, and that Sexual Violence is a significant and systemic social and campus issue.
- 3.02 This policy recognizes Intersectionality and the ways that Sexual Violence disproportionately affects certain individuals due to many factors including but not limited to their actual, perceived,

or imputed gender identity, racialized identity, sex, socioeconomic status, age, sexual orientation, or physical/intellectual ability.

3.03 The University is committed to addressing Sexual Violence by:

- a) implementing and actively promoting education, awareness, prevention, and training programs, in multiple formats and tailored to multiple audiences, on issues related to Sexual Violence;
- b) responding to Disclosures and Reports of Sexual Violence in a trauma-informed, consistent, coordinated, fair, and transparent manner;
- c) supporting Survivors and those impacted by Sexual Violence;
- d) communicating the support services and the resources available to all members of the UW Community, including those who may be directly or indirectly impacted by Sexual Violence; and
- e) providing necessary accommodations to Survivors and those impacted by Sexual Violence, through academic, nonacademic, and other means of accommodation as required.

## 4.0 Definitions

The following definitions apply to terms as they are used in this Policy:

4.01 Administrator: Anyone who has sufficient authority to take or ensure the taking of remedial action including Deans, Directors, Executive Directors, the Registrar, Provost, Deputy Provost, Vice-Presidents, Associate Vice-Presidents, and the President. In the case of a student the Administrator shall in most cases be the Registrar.

4.02 Complainant: When a Report is made alleging a violation of this policy the person filing the complaint is referred to as the Complainant.

4.03 Confidentiality: The duty not to share information created or received in private without the explicit permission of the individual the information is about.

4.04 Consent: The active, ongoing, informed, knowing, and voluntary decision to engage in mutually acceptable sexual activity. More specifically:

- a) Consent is active. It is not passive or silent; it must be affirmative and ongoing; it can never be assumed or implied;
- b) Consent cannot be coerced through harassment, manipulation, threats, or abuse of power;
- c) It is the responsibility of the person who wants to engage in the sexual activity to make sure that they have ongoing Consent from the other person(s) involved;
- d) Consent to one sexual act does not constitute or imply Consent to a different sexual act;
- e) Consent is required regardless of the parties' relationship status or sexual history together;
- f) Consent cannot be given by a person who is incapacitated by alcohol or drugs or who is unconscious or otherwise lacks the capacity to give Consent;
- g) Impaired judgment on the part of the person accused that leads them to think or believe there was Consent is not an excuse for an act of Sexual Violence;
- h) Consent can be revoked at any time by any participant; and
- i) There is no Consent where one person abuses a position of trust, power, or authority over another person.

4.05 Disclose/Disclosure: When a person tells a UW Community member that they have experienced or witnessed Sexual Violence. A Disclosure is not a Report (see definition of Report, below). A Disclosure may be made for the purpose of support, accommodation, and seeking out information.

- 4.06 HRDO: Refers to the Human Rights and Diversity Officer of the University.
- 4.07 Intersectionality: The ways in which a person's experiences are shaped by the interaction of different social positions (e.g. their actual, perceived, or imputed sex, sexual identity, gender identity, racial or ethnic background, economic status, faith, migration status, etc.). These interactions are rooted in interconnecting systems of power and produce intersecting forms of privilege and oppression shaped by colonialism, racism, homophobia, ableism, patriarchy, transphobia, queer antagonism, and/or any other form of discrimination.
- 4.08 Rape Culture: A culture in which the dominant ideas, social practices, media images, and societal institutions implicitly or explicitly condone Sexual Assault by normalizing or trivializing Sexual Violence and by blaming Survivors for their own abuse.
- 4.09 Report: A statement concerning an incident of Sexual Violence to the Human Rights and Diversity Officer (or an external authority, if applicable) with the intention of requesting any type of resolution, remedy, or sanction against a Respondent. A Report is different from a Disclosure; see definition of Disclosure above.
- 4.10 RWLE: Refers to the Respectful Working and Learning Environment Policy of the University.
- 4.11 Respondent: When a Report is made under this policy the person against whom the allegations are made is referred to as the Respondent.
- 4.12 Sexual Assault: Sexual Assault is any type of unwanted sexual contact by one or more person(s) to another in which the person has not freely Consented to, or is incapable of Consenting to, the sexual contact. Kissing, fondling, sexual penetration, and oral sex are all examples of sexual assault if they occur without Consent.
- 4.13 Sexual Harassment: a) A course of abusive and unwelcome conduct or comment undertaken or made on the basis of an individual's actual, perceived, or imputed sexuality, gender identity, or gender expression; b) a series of objectionable and unwelcome sexual solicitations or advances; or (c) a sexual solicitation or advance made by a person who is in a position to confer any benefit on, or deny any benefit to, the recipient of the solicitation or advance, if the person making the solicitation or advance knows or ought reasonably to know that it is unwelcome; or (d) a reprisal or threat of reprisal for rejecting a sexual solicitation or advance (see: The Human Rights Code).
- 4.14 Sexual Violence: Any sexual act or act targeting a person's sexuality, gender identity, or gender expression whether that act is physical or psychological in nature, that is committed, threatened, or attempted against a person without that person's Consent. This includes but is not limited to Sexual Assault, Sexual Harassment, stalking, indecent exposure, voyeurism, and sexual exploitation (examples of which include the distribution of sexual images or video without that person's Consent), and cyber harassment of a sexual nature (see: The Sexual Violence Awareness and Prevention Act).
- 4.15 SVRT: Refers to the Sexual Violence Response Team which is a small team of staff members that oversees and coordinates services for individuals who have experienced or are impacted by Sexual Violence.
- 4.16 Social Media: Digital communication platforms used to develop social and professional contacts and to share opinions, insights, experiences and perspectives via comments, shared video or

audio files. Social Media platforms include, but are not limited to blogs, Wikipedia, Facebook, Twitter, Instagram, Snapchat, and YouTube.

- 4.17 Student: a person who is taking courses in a graduate, undergraduate, or other program offered by the University, including the Collegiate, English Language Program and Professional, Applied and Continuing Education.
- 4.18 Supervisor: a person who has charge of a workplace or authority over a worker. In the case of the University this would include but not be limited to: Department Chair, Director, Manager or supervisor responsible and which may include faculty in charge of classroom or laboratory settings.
- 4.19 Survivor: Refers in this policy to an individual who has identified themselves as having experienced Sexual Violence.
- 4.20 University: Refers to the University of Winnipeg as defined by The University of Winnipeg Act.
- 4.21 UW Community: Refers to students, employees, anyone holding a University appointment, post-doctoral fellows, visiting scholars, anyone contractually required to abide by University policies, anyone volunteering with a University program or activity, students and employees of the Collegiate, members of the Board of Regents and Senate, and anyone who resides on University property.

## **5.0 Scope**

- 5.01 The University may investigate and provide a resolution, remedy, or sanction in response to a Report where the Respondent is a member of the UW Community regardless of whether the incident occurred on or off campus; or through other forms of communication including but not limited to Social Media, digital communication, written communication, or telephone.
- 5.02 The University may investigate incidents of Sexual Violence that occur:
- a) on any property controlled by the University and used for University purposes;
  - b) at an event or during an activity sponsored or under the auspices of the University including but not limited to: athletic events, field schools, study abroad, distance/online courses, coop placements/practica, academic or professional conferences, volunteer activities, and research/academic field work.
- 5.03 The University may always take such actions as necessary to mitigate the impacts of incidents of Sexual Violence on the learning, living, social, recreational, or working environment and may revoke access or bar entrance to University property or take such other steps as are deemed necessary and appropriate to ensure the safety of the UW Community or any of its members.
- 5.04 This policy and its associated procedures are designed to complement and not conflict with University collective agreements. Where a University collective agreement applies, the processes in the collective agreement will be followed. For persons affected by the operation of this policy, applicable provisions of any collective agreement will be explained.

## **6.0 Policy Elements**

### **6.01 Prohibited Conduct**

- 6.01.01 All acts of Sexual Violence are prohibited under this Policy.

- 6.01.02 All intimate and/or sexual relationships between employees and Students are prohibited under this policy subject to very narrow exceptions. All relationships must be disclosed to the appropriate Administrator who shall make a determination as to whether an exception is warranted in accordance with the Conflict of Interest Policy.
- 6.01.03 All intimate and/or sexual relationships between Supervisors and their subordinates are prohibited under this policy subject to very narrow exceptions. All relationships must be disclosed to the appropriate Administrator who shall make a determination as to whether an exception is warranted in accordance with the Conflict of Interest Policy.
- 6.01.04 Retaliation of any kind is prohibited. This includes retaliation against any member of the UW Community who reports or is witness to an incident of Sexual Violence. Any member of the UW Community found to have engaged in retaliation may be sanctioned under this policy, other University policies, or a collective agreement as may be appropriate.
- 6.01.05 A person may also be sanctioned if that person breaches the Confidentiality of a Disclosure or Report.

## **6.02 Commitment to Education, Prevention, and Training**

- 6.02.01 The University will develop a yearly action plan to educate the UW Community on issues of Sexual Violence, coordinated by the HRDO. The educational campaign will help build understanding of this policy and related procedures, promote a culture of consent, and address issues of Sexual Violence.
- 6.02.02 All education and training should be tailored to diverse campus populations.
- 6.02.03 Any strategy will include multiple approaches to awareness raising and training including the use of online materials, Social Media, and educational workshops.
- 6.02.04 The University will make plain language materials easily accessible to Survivors of Sexual Violence that reflect the range of options available to them and what they can expect in relation to how the University will address issues of Sexual Violence.
- 6.02.05 All staff involved in providing support, accommodation, or in the investigation process will be trained in issues related to Sexual Violence. The University will make training related to this policy and the procedures available to the UW Community.
- 6.02.06 A lack of awareness to what constitutes Sexual Violence or of the Sexual Violence Prevention Policy does not constitute a valid defense to allegations of Sexual Violence.

## **6.03 Commitment to Support and Accommodation:**

- 6.03.01 The University will assist UW Community members in accessing appropriate support and accommodation, including referrals to resources available on campus and, where requested, necessary or required, referral to external community resources. Individual needs are different and the University will work on a case by case basis to determine what supports and accommodations are needed.
- 6.03.02 The University recognizes that some individuals may be hesitant to Disclose or Report Sexual Violence in cases where they have been using alcohol or drugs at the time the Sexual Violence took place. Individuals Disclosing or Reporting incidents of Sexual Violence will not be subject to actions for violations of the University's policies related to alcohol or drug use at the time the Sexual Violence took place.

#### **6.04 Disclosures:**

- 6.04.01 UW Community members need only make a Disclosure that they have experienced or witnessed an incident of Sexual Violence to seek support from the University.
- 6.04.02 There is no time limit for making a Disclosure. The University encourages, but does not require, Survivors or others impacted by Sexual Violence to seek immediate assistance. Seeking assistance promptly may be important to ensure physical safety, obtain medical care or emotional support, or preserve evidence.
- 6.04.03 All Disclosures will remain Confidential with exceptions outlined in section 17 (Confidentiality) of this policy.
- 6.04.04 The individual Disclosing has the right to determine what, when, and how much they Disclose.

#### **6.05 Response Coordination:**

- 6.05.01 The SVRT is available to all students as an option for Disclosing an incident of Sexual Violence (employees will be assisted by the HRDO as set out in the Sexual Violence procedures). The SVRT shares limited information between team members so that the Survivor does not need to retell their story to multiple individuals in order to access support and accommodation.

#### **6.06 Initiating Reports:**

- 6.06.01 All UW Community members have the option of filing a Report where they wish the University to take steps to resolve the matter under this policy.
- 6.06.02 The University may accept Reports from persons who are not members of the UW Community if the Respondent is a member of the UW Community, or if the incident occurred on University property or in connection with a University activity.
- 6.06.03 There is no time limit for making a Report. The ability to adequately investigate, impose sanctions, and otherwise to provide a resolution may however be affected by the timeliness of a Report.
- 6.06.04 The University will assist a Complainant by providing the information they need on how to Report an incident of Sexual Violence including informing them that they have the option to be accompanied by a support person.
- 6.06.05 If a Report is filed against an employee, the procedures set out in the Respectful Working and Learning Environment Policy will be followed. If the Report is filed against a student the procedures set out in Appendix A of these procedures will be followed.

#### **6.07 Anonymous and Third-Party Reports:**

- 6.07.01 In some instances a person other than a Survivor may wish to Report an incident when they have information about an incident(s) of Sexual Violence that they were either witness to or know about on account of receiving a Disclosure.
- 6.07.02 A Report may be filed by someone other than the Survivor but should only be done so with the approval of the Survivor except in limited situations outlined in section 17 (Confidentiality). Witness Reports or anonymous Reports, where made by someone other than the Survivor, should still contain identifying information such as names or physical

descriptions of those involved, if known. These Reports can be filed in the same manner as any Complainant Report.

6.07.03 The University will accept these Reports for the purposes of:

- a) Determining whether there is evidence of a safety concern for the UW Community;
- b) Identifying whether it is reasonable or required for the University to investigate; and/or
- c) Compiling statistics related to Sexual Violence.

6.07.04 Anonymous or Third-Party Reports, while accepted for the above purposes, will generally limit the University's ability to investigate. In addition, anonymous Reports cannot be used as the basis for disciplinary action in accordance with University collective agreements and principles of procedural fairness.

#### **6.08 Interim Measures During Report Process:**

6.08.01 When the University receives information that requires it to act to protect any UW Community members' health or safety, including the Complainant or Respondent, the University may impose interim measures before an investigation is concluded.

6.08.02 Any decision to impose interim measures will not be construed as a decision or discipline against the Complainant or Respondent and will not be weighed against the Respondent in a discipline process. Interim measures will remain in effect for as long as is reasonably required pending the outcome of an investigation.

#### **6.09 Statement on Concurrent Process:**

6.09.01 The University may proceed with an investigation into a Report of Sexual Violence while the incident is also being investigated by the police or another agency. The University may also suspend its investigation pending the outcome of another process, or based on a participant's health or ability to participate.

#### **6.10 Procedural Fairness:**

6.10.01 The core element of procedural fairness in this policy is that a person against whom allegations are made must know the allegations and evidence against them, and must be given an adequate opportunity to respond prior to a decision being made.

#### **6.11 Statement of Rights of Complainant and Respondent:**

6.11.01 A Complainant has the following rights:

- a) to be treated with fairness, dignity, and respect;
- b) to not be questioned about their past sexual history;
- c) to be given access to available support and resources throughout the process;
- d) to timely assistance with safety planning;
- e) to timely information about referrals to available on- and offcampus support services and resources;
- f) to have the process explained to them in an accessible manner, including the possible outcomes;
- g) to have their personal information kept confidential, unless they have consented to it being shared except in limited cases where disclosure is required by law (such as in criminal, collective agreement, or civil proceedings) or University policy (see section 17, Confidentiality);
- h) to be informed when it may be necessary that information collected be disclosed;

- i) to present their side of the story, and to respond to other participants' information;
- j) to be accompanied by a support person;
- k) if the Complainant is a unionized employee, to representation by their union as defined by their respective collective agreement;
- l) to decline to participate in aspects of the investigation;
- m) to appeal (within the appropriate time frame) or file a grievance in relation to a decision by the University not to investigate;
- n) to regular updates on the status of the process;
- o) to opportunities to engage in alternative resolution processes where appropriate;
- p) to written notice of any resolution or determination that affects the Complainant;
- q) to written notice of the outcome of any appeal or grievance that affects the Complainant;
- r) to an impartial decision-maker.

6.11.02 A Respondent has the following rights:

- s) to be treated with fairness, dignity, and respect;
- t) to be given access to available support and resources throughout the process;
- u) to receive timely notice and information about the allegations against them;
- v) to be presumed to have not violated this policy until a fair investigation is completed;
- w) to have the process explained to them in an accessible manner, including the possible outcomes and consequences;
- x) to have their personal information kept Confidential, unless they have consented to it being shared except in limited cases where disclosure is required by law (such as in criminal, collective agreement, or civil proceedings) or University policy (see section 17, Confidentiality);
- y) to be informed when it may be necessary that information collected be disclosed;
- z) to present their side of the story, and to respond to other participants' information;
- aa) to be accompanied by a support person;
- bb) to decline to participate (however, the process may still proceed in the absence of the Respondent);
- cc) to notice about the outcome of an investigation and any sanctions against them;
- dd) to appeal the decision (within the appropriate time frame) and to receive written notice of the outcome of any appeal.
- ee) to regular updates on the status of the process;
- ff) to opportunities to engage in alternative resolution processes where appropriate;
- gg) to written notice of any resolution or determination that affects the Respondent;
- hh) to an impartial decision-maker.

6.11.03 Where the Respondent is an employee, the Report and Investigation process will occur under the RWLE, and they will have the rights as set out in the RWLE. Respondents and Complainants who are unionized employees will also have rights as outlined in their collective agreements.

## **6.12 Confidentiality and Privacy:**

6.12.01 Confidentiality is essential to fostering a safe environment and will be safeguarded to the greatest extent possible. Respecting confidentiality is also an obligation under FIPPA, subject to certain exceptions.

6.12.02 All UW Community members who receive a Disclosure or Report and are involved in addressing and investigating the incident must keep the matter Confidential, except in

accordance with this policy (e.g. to conduct an investigation, implement interim measures, etc.) and FIPPA.

6.12.03 Respondents, Complainants, and witnesses are free to speak about their own experiences. Any individual participating in an investigation, including Complainants, Respondents, witnesses, support persons, and others, must keep any information they learn through the investigation Confidential, both during and after the investigation in accordance with FIPPA.

6.12.04 There may be instances in which Confidentiality is limited in order to address immediate safety concerns or satisfy a legal reporting requirement. These situations include:

- ii) An individual is at risk of suicide;
- jj) An individual is at risk of violently harming others;
- kk) There is a serious and imminent risk to the safety of the University and/or broader community; and/or
- ll) disclosure is required by law (e.g. in situations involving a minor or where the University has an obligation to investigate the allegations of Sexual Violence under human rights or health and safety legislation.) In such instances, the minimum amount of information needed to address the situation or meet legal requirements will be disclosed and the Survivor will be informed at every step of the process.

6.12.05 All parties should note that the University's ability to maintain Confidentiality and privacy may be impacted if served with a subpoena, notice, or order arising from a legal proceeding.

#### **6.13 Review:**

6.13.01 The University will continue to monitor best practices and research and will review and update this policy and its associated procedures whenever it is reasonable or necessary to do so.

6.13.02 The University will review this policy at least once every four years, as outlined in The Advanced Education Administration Act, which will include consultations with students.

## **7.0 Relevant Legislation**

- [The Advanced Education Administration Act](#)
- [The Child and Family Services Act](#)
- [The Freedom of Information and Protection of Privacy Act \(FIPPA\)](#)
- [The Human Rights Code \(Manitoba\)](#)
- [The Sexual Violence Awareness and Prevention Act](#)

## **8.0 Related Policies, Procedures and Institutional Documents**

- [Conflict of Interest Policy](#)
- [Sexual Violence Prevention Procedures](#)
- [Student Non-Academic Misconduct Policy](#)
- [Respectful Working and Learning Environment Policy & Procedures](#)
- [Violence Prevention Policy & Procedures](#)