



SIMON FRASER UNIVERSITY	Date	Number
Sexual Violence and Misconduct Prevention, Education and Support	March 30, 2017	GP 44
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1.0 PREAMBLE

1.1 Simon Fraser University values and promotes the health, safety and well-being of individuals and the community. The University does not tolerate sexual violence and misconduct. With this policy, the University commits to:

- a. Recognize the diversity of the University Community and understand that each person will be affected differently by Sexual Violence and Misconduct, based on factors such as: sex; sexual orientation; gender identity and expression; Indigenous, racial or ethnic background; migration status; language; ability; faith; age; socio-economic status and previous experiences of trauma; and that acts of Sexual Violence and Misconduct may also be acts of sexism, racism, ableism, homophobia, and/or transphobia;
- b. Provide education for members of the University Community about healthy and consensual sexual practices and relationships;
- c. Provide safe, accessible and timely confidential assistance and support, referrals, and information to members of the University Community who are affected by Sexual Violence and Misconduct;
- d. Provide reasonable and appropriate accommodation for members of the University Community who are affected by Sexual Violence and Misconduct;
- e. Provide education and awareness programs and training designed to reduce and prevent Sexual Violence and Misconduct, and training on responding to Disclosures, for all members of the University Community. The University will strongly encourage all members to participate;

- f. Consistently and effectively communicate the services, resources, and options available for members of the University Community affected by Sexual Violence and Misconduct;
- g. Investigate reported incidents of Sexual Violence and Misconduct where appropriate;
- h. Adhere to the principles of procedural fairness and natural justice, as outlined in section 8 of this policy, when investigating Reports of Sexual Violence and Misconduct and when taking steps to establish consequences or impose discipline;
- i. Systematically collect data concerning incidents of Sexual Violence and Misconduct; and
- j. Report regularly to the University Community about the outcomes of this policy and its associated procedures.

2.0 PURPOSE

2.1 The purpose of this policy is to affirm the University's commitment to maintaining and enhancing a safe and healthy campus for all members of the University Community and to state the University's commitment to addressing Sexual Violence and Misconduct by making available:

- a. Coordinated and comprehensive training and education for reducing, preventing and responding to Sexual Violence and Misconduct for members of the University Community;
- b. Coordinated and comprehensive trauma-informed support for members of the University Community affected by Sexual Violence and Misconduct; and
- c. Clear and fair processes for managing and investigating Reports of Sexual Violence and Misconduct and, where appropriate, for establishing consequences and discipline.

2.2 This policy must be read, interpreted, and applied within the context of these overarching purposes.

3.0 SCOPE and JURISDICTION

Prohibited Conduct

3.1 Acts of Sexual Violence and Misconduct are prohibited.

3.2 Retaliation of any kind, direct or indirect, against a Survivor who Discloses or Reports Sexual Violence and Misconduct, against a Respondent, or against anyone who participates in a University process addressing allegations of Sexual Violence and Misconduct is prohibited.

Jurisdiction of the Policy

3.3 This policy applies to all members of the University Community.

3.4 Any member of the University Community who Discloses or Reports that they have been affected by Sexual Violence and Misconduct can access confidential assistance and support, referrals and information from the Sexual Violence Support and Prevention Office and request accommodation, regardless of the time or place at which the Sexual Violence and Misconduct occurred, or the parties involved.

3.5 For the purposes of internal investigations, consequences and discipline, this policy applies only to Sexual Violence and Misconduct by a member of the University Community against another member of the University Community that is Reported to the Sexual Violence Support and Prevention Office and that is alleged to have occurred:

- a. On any property that is controlled by the University and used for University purposes; or
- b. At an event or during an activity sponsored or under the auspices of the University; or
- c. Online, using the University's Information and Communications Technology; or
- d. When the Respondent was in a position of power or influence over the Survivor's academic or employment status at the time of the reported incident.

3.6 In cases involving behaviour that may fall within the definition of "sexual harassment" in the University's Human Rights Policy (GP 18), the Survivor may choose to proceed under that policy as set out in section 8.5.a below. The Sexual Violence Support and Prevention Office will explain this option to a Survivor who makes a Report.

3.7 This policy is not intended to discourage or prevent a member of the University Community from exercising any other rights they may have, including the right to file a complaint with the British Columbia Human Rights Tribunal or the right to pursue a criminal or civil remedy.

4.0 DEFINITIONS

4.1 Accommodation

means the provision by the University of reasonable and appropriate academic, workplace or other measures that:

- a. are provided to a member of the University Community affected by Sexual Violence and Misconduct;
- b. are designed to meet that person's needs resulting from an incident of Sexual Violence and Misconduct; and
- c. do not infringe on the rights of others.

Examples of academic accommodation in teaching or evaluation procedures may include changing a tutorial section, project group or supervisor, providing an extension on an assignment, deferring an exam, authorizing withdrawal from a class without penalty or allowing continuing studies from home. An example of other accommodation may include changing residence rooms.

4.2 Complainant

means a Survivor who makes a Report and initiates an internal process through the Sexual Violence Support and Prevention Office pursuant to section 8.5.b of this policy.

4.3 Consent

means clear, ongoing and voluntary agreement to engage in sexual activities. Consent is informed, freely given, and actively communicated as demonstrated by words or conduct objectively assessed. For clarity, Consent:

- a. is a freely given “yes”;
- b. cannot be given by someone who is incapacitated, including for example a person who is asleep or unconscious;
- c. can never be obtained through threats, coercion or other pressure tactics;
- d. can be revoked at any time, regardless of whether other sexual activities or agreements have taken place;
- e. cannot be obtained if someone abuses a position of trust, power or authority over another person; and
- f. cannot be assumed from previous consent to the same or similar activities.

4.4 Disclosure

occurs when a Survivor tells a member of the University Community that they have experienced Sexual Violence and Misconduct. This is not the same as a Report under section 8, which is intended to initiate a process.

4.5 Report

means a Survivor telling the Sexual Violence Support and Prevention Office about an incident of Sexual Violence and Misconduct with the intention of initiating a process. This is not the same as a Disclosure, under section 7, which does not initiate a process. A Survivor who makes a Report and initiates an internal process through the Sexual Violence Support and Prevention Office will be referred to in that process as the Complainant.

4.6 Respondent

means a member or members of the University Community against whom a Report has been made pursuant to this policy.

4.7 Sexual Violence and Misconduct

is an umbrella term that encompasses a broad range of behaviour. It means a sexual act or an act targeting a person's sexuality, gender identity or gender expression that is committed, threatened or attempted against a person without the person's Consent. Such behaviour may or may not involve physical contact. It includes but is not limited to: sexual assault, sexual exploitation, sexual harassment, stalking, indecent exposure, voyeurism, and the distribution of sexually explicit photographs or videos of a person without their Consent.

4.8 Student

includes any of the following: an undergraduate who is enrolled at the University for one or more of the last three terms and is eligible to continue in a program of study; a graduate student who is enrolled at the University in the current term and is eligible to continue; a graduate student who is on leave and eligible to enrol at the University when the leave ends; a visiting or exchange or special audit student who has been formally admitted to the University for the purposes of taking courses or to take part in an approved research term; a graduate student who is enrolled in courses at the University as a qualifying student; or a person enrolled at the University in a non-credit program or course.

4.9 Survivor

means a member of the University Community who identifies as someone who has experienced Sexual Violence and Misconduct. The University recognizes that an individual may not wish to use the term Survivor and will therefore respect an individual's preferred term, such as Complainant, Victim, or Discloser, in its interactions with that person. A Survivor can access confidential assistance and support, referrals and information from the Sexual Violence Support and Prevention Office, and can request accommodation as defined in this policy, regardless of where or when the Sexual Violence and Misconduct occurred or the parties involved.

4.10 University Community

means all students and employees of the University and all people who have a status at the University mandated by legislation or other University policies, including research assistants, post-doctoral fellows, members of Senate and the Board of Governors, volunteers, visiting and emeritus faculty, and visiting researchers.

ROLES AND RESPONSIBILITIES

5.0 SEXUAL VIOLENCE SUPPORT AND PREVENTION OFFICE

5.1 The University will establish a Sexual Violence Support and Prevention Office as a centre utilizing current best practices in education, training and support for Sexual Violence and Misconduct, for all members of the University Community.

5.2 The Sexual Violence Support and Prevention Office will:

- a. provide safe, timely, ongoing and confidential assistance and support, referrals and information to a member of the University Community who has been affected by Sexual Violence and Misconduct;
- b. inform that person about the resources available to them;
- c. receive and facilitate that person's request for reasonable and appropriate academic, workplace or other accommodation;
- d. inform Survivors about the resources available to them, including their options for reporting Sexual Violence and Misconduct and assist them to make informed decisions;
- e. inform Respondents about the resources available to them and assist them to make informed decisions;
- f. work closely with off-campus services as well as on-campus service units including Health & Counselling and Campus Security to ensure timely and coordinated assistance, support and referrals for members of the University Community affected by Sexual Violence and Misconduct and to reduce the repetition of Disclosures and Reports by a Survivor;
- g. provide timely and confidential assistance and support, referrals and information to members of the University Community who have received Disclosures;
- h. maintain a comprehensive, integrated communication strategy, which will include a central web resource with detailed information about:
 - i. the supports and resources available to Survivors, Respondents, and other members of the University Community;
 - ii. options for reporting an incident of Sexual Violence and Misconduct under section 8 of this policy, including processes that are external to the University and processes that are internal; and
 - iii. related matters.
- i. oversee, develop and coordinate the delivery of the training, education and awareness initiatives mandated by this policy;
- j. systematically collect data and maintain annual statistics, without identifying information, on the number of Disclosed and Reported incidents of Sexual Violence

and Misconduct under this policy for the purposes of community education and for reporting to the University Community;

- k. participate in the periodic evaluations of this policy and its related initiatives;
- l. conduct periodic surveys of the University Community related to Sexual Violence and Misconduct; and
- m. establish an advisory panel to act as a resource for the Sexual Violence Support and Prevention Office, composed of experts from the University Community who have knowledge and experience in reducing, preventing and responding to Sexual Violence and Misconduct.

5.3 The Sexual Violence Support and Prevention Office will facilitate Reporting an incident of Sexual Violence and Misconduct pursuant to section 8 of this policy when requested by a Survivor, and it will provide the Survivor with confidential and ongoing support, but the Sexual Violence Support and Prevention Office will not be an advocate for any member of the University Community nor will it have a role in investigations or disciplinary actions.

6.0 AWARENESS, EDUCATION and TRAINING

6.1 In cooperation with relevant partners, the Sexual Violence Support and Prevention Office will oversee, develop and coordinate a proactive and sustained education plan for the University Community that may include a combination of campaigns, on-line and in-person training sessions, workshops, print and on-line resources, programs and other events on a range of topics related to:

- a. reducing, preventing and responding to Sexual Violence and Misconduct; and
- b. providing support for members of the University Community affected by Sexual Violence and Misconduct.

6.2 The Sexual Violence Support and Prevention Office will facilitate the inclusion of educational materials related to Sexual Violence and Misconduct in student and employee orientation, and will be available to consult with individual faculty members, departments and faculties in the development of course materials and program curriculum.

6.3 The Sexual Violence Support and Prevention Office will strongly encourage all members of the University Community to participate in the education and training, and to be knowledgeable about and to contribute to the reduction and prevention of Sexual Violence and Misconduct.

7.0 DISCLOSING SEXUAL VIOLENCE AND MISCONDUCT

7.1 A member of the University Community who has experienced Sexual Violence and Misconduct may choose to disclose the experience by confiding in another member of the

University Community. This is a Disclosure. A Disclosure is not the same as a Report under section 8 of this policy. A Disclosure normally does not initiate an investigation or other process. To initiate a process, a Survivor must Report an incident of Sexual Violence and Misconduct to the Sexual Violence Support and Prevention Office pursuant to section 8 of this policy.

7.2 All members of the University Community are strongly encouraged to be knowledgeable about how to appropriately receive and respond to a Disclosure. Members of the University Community who receive a Disclosure may choose to contact the Sexual Violence Support and Prevention Office for information, advice and personal support.

7.3 A member of the University Community who receives a Disclosure should treat the Survivor with compassion, dignity, and respect. They should ensure that the Survivor is aware of this policy, and inform the Survivor that the Sexual Violence Support and Prevention Office is available to provide the Survivor with confidential and ongoing assistance and support, referrals and information.

7.4 A member of the University Community who Discloses or Reports to the Sexual Violence Support and Prevention Office that they have experienced Sexual Violence and Misconduct can expect to:

- a. be treated with compassion, dignity and respect;
- b. obtain timely assistance to create a safety plan;
- c. learn about on- and off-campus services and resources;
- d. obtain reasonable and appropriate academic, workplace or other accommodation;
- e. learn about the options and procedures for initiating internal and external processes to address an incident of Sexual Violence and Misconduct, as outlined in section 8 of this policy, and the limits to confidentiality associated with each option;
- f. receive timely, ongoing and confidential support, regardless of whether the member chooses to make a Report under section 8 of this policy, and regardless of the outcome of that Report;
- g. be provided with information to allow them to make autonomous and informed decisions about which services they believe will be the most beneficial; and
- h. be provided with information to allow them to make autonomous and informed decisions about which of the options outlined in section 8 to pursue, if any.

7.5 A Survivor who Discloses to the Sexual Violence Support and Prevention Office that they have experienced Sexual Violence and Misconduct is entitled to decide whether to:

- a. access available on- and off-campus services and to choose the services they feel will be the most beneficial;

- b. contact the relevant law enforcement agency and pursue criminal proceedings;
- c. file a complaint with the British Columbia Human Rights Tribunal, where the matter falls within its jurisdiction;
- d. initiate other legal proceedings;
- e. file a complaint of sexual harassment under the University's Human Rights Policy (GP 18); or
- f. convert their Disclosure into a Report pursuant to section 8.5.b of this policy, with the intention of initiating an internal process as outlined in that section.

7.6 A member of the University Community who requests academic, workplace, or other accommodation due to an incident of Sexual Violence and Misconduct should contact the Sexual Violence Support and Prevention Office. The Sexual Violence Support and Prevention Office will receive and facilitate the request where reasonable and appropriate.

8.0 REPORTING SEXUAL VIOLENCE AND MISCONDUCT TO THE UNIVERSITY

8.1 A Survivor who has experienced Sexual Violence and Misconduct by another member of the University Community may choose to Report the Sexual Violence and Misconduct to the Sexual Violence Support and Prevention Office with the intention of initiating a process under section 8.5 of this policy. A Report is not the same as a Disclosure under section 7. A Disclosure normally does not initiate an investigation or other process.

8.2 A Survivor may make a Report to the Sexual Violence Support and Prevention Office alone or the with assistance of a support person of their choice.

8.3 The Sexual Violence Support and Prevention Office will inform the Survivor about their options, as outlined in sections 8.4 and 8.5 of this policy, and assist them to understand those options.

8.4 A Survivor may choose one or more of the following options to initiate an external process:

- a. to contact the relevant law enforcement agency and pursue criminal proceedings;
- b. to file a complaint with the British Columbia Human Rights Tribunal where the matter falls within its jurisdiction;
- c. to initiate other legal proceedings.

8.5 A Survivor who makes a Report may choose one of the following options to initiate an internal process:

- a. to file a complaint under the University's Human Rights policy (GP 18) in cases involving behaviour that may fall within the definition of sexual harassment in that policy.
 - i. The Survivor's choice, once made, is irrevocable with one exception. If the Human Rights Office determines that the behaviour does not fall within the scope of that policy, then the Survivor may choose to proceed under the Sexual Violence and Misconduct Prevention, Education and Support policy.
- b. to initiate, as a Complainant, one of the following processes through the Sexual Violence Support and Prevention Office:
 - i. If the Respondent is a student, the Sexual Violence Support and Prevention Office will direct the matter to a student conduct officer in the Office of Student Services pursuant to the Student Code of Conduct (Non-Academic) for investigation and further steps;
 - ii. If the Respondent is an employee of the University covered by a collective agreement, the Sexual Violence Support and Prevention Office will direct the matter to the employee's supervisor and Human Resources or to the appropriate Dean or University Archivist and Faculty Relations for investigation and further steps;
 - iii. If the Respondent is a member of the University Community but neither a student nor an employee covered by a collective agreement, the Sexual Violence Support and Prevention Office will direct the matter to the person who employs or otherwise supervises the Respondent, so that it can be dealt with in accordance with the purpose, spirit and intent of this policy.

8.6 Nothing in this policy prevents interim measures being imposed on a Respondent pursuant to a University policy or collective agreement.

8.7 The University reserves the right to initiate an internal investigation and/or to inform the relevant law enforcement agency without the consent of the Survivor if it has a reasonable belief that the safety of one or more persons may be at risk. Where practical, the University will inform the Survivor of its decision in advance.

9.0 PROCEDURAL FAIRNESS

9.1 The University shall deal with all Reports of Sexual Violence and Misconduct in a fair, unbiased and timely manner.

9.2 An impartial and appropriately qualified person shall investigate Reports of Sexual Violence and Misconduct.

9.3 Investigations must comply with all relevant provisions in an applicable collective agreement or policy, including notice requirements, time lines and other process issues.

9.4 A Complainant and a Respondent shall each be advised of the procedures that will be followed.

9.5 A Respondent shall be advised of the allegation and shall be given an opportunity to respond.

10.0 CONSEQUENCES AND OUTCOMES

10.1 A Respondent who is found to have committed an act of Sexual Violence and Misconduct will be held accountable by the University and may be subject to consequences which may include disciplinary action up to and including suspension or termination, pursuant to the Student Code of Conduct (Non-Academic) for students, or the applicable collective agreement, employment contract or relevant policy for employees.

10.2 The University will provide a Complainant who initiates a process under section 7.5.b with the outcome of the Report that was made.

11.0 ACCESS TO INFORMATION, CONFIDENTIALITY AND PROTECTION OF PRIVACY

11.1 The information and records made and received to administer this policy are subject to the access to information and protection of privacy provisions of British Columbia's *Freedom of Information and Protection of Privacy Act* and the University's Information Policy series. To the extent possible, the information and records will be treated in a confidential manner, in compliance with the Act and with applicable University's policies, including the Student Code of Conduct (Non-Academic) and its related procedures, and with the relevant collective agreement.

11.2 A University employee who receives a Disclosure or a Report or who is involved in addressing or investigating it must:

- a. Make every reasonable effort to protect personal information and maintain confidentiality;
- b. Collect the minimum information about individuals that relates directly to and is necessary to respond to a Disclosure or Report, which is considered to be supplied in confidence;
- c. Use the information about individuals only for the purposes of, or those consistent with, addressing the situation, investigating or taking action;
- d. Limit disclosure of information about individuals to those within the University who need to know to perform their duties; and

- e. Disclose personal information in all other circumstances only as permitted under the *Freedom of Information and Protection of Privacy Act*.

11.3 The University may disclose personal information where appropriate, including where:

- a. it determines compelling circumstances exist that affect any person's health or safety;
- b. a law authorizes or requires its disclosure;
- c. it is needed to prepare or obtain legal advice for the University;
- d. it complies with a subpoena, a warrant or an order issued by a court, person or body in Canada with jurisdiction to compel the production of information;
- e. it uses the information for the purpose for which it was obtained or compiled or for a use consistent with that purpose (for example, where it is necessary to fulfill its duty of procedural fairness);
- f. an employee needs the information to perform their employment duties; or
- g. it is to a law enforcement agency in Canada to assist in a specific investigation.

12.0 MULTIPLE PROCEEDINGS

12.1 If criminal, civil, or administrative proceedings are commenced in respect of allegations of Sexual Violence and Misconduct, the University reserves the right to proceed with, defer or suspend its own processes. Where practical, the University will discuss its intentions with the Survivor before making its decision.

13.0 RELATED LEGAL, POLICY AUTHORITIES AND AGREEMENTS

13.1 The legal and other University policy authorities and agreements that may bear on the administration of this policy and may be consulted as needed include but are not limited to:

- a. *Sexual Violence and Misconduct Policy Act*;
- b. *University Act*;
- c. *Freedom of Information and Protection of Privacy Act*;
- d. Student Code of Conduct (Non-Academic);
- e. Residence and Housing Handbook and Residence licence agreement;

- f. Employee Collective Agreements and relevant human resources policies;
- g. Human Rights (GP 18);
- h. Response to Violence and Threatening Behaviour (GP 25);
- i. Fair Use of Information and Communications Technology (GP 24);
- j. Conflict of Interest (GP 37);
- k. The University's Information Policy Series which includes:
 - i. Access to Information and Protection of Privacy (I 10.04); and
 - ii. Collection of Personal Information (I 10.05).

14.0 RETENTION AND DISPOSAL OF RECORDS

14.1 Information and records made and received to administer this policy are evidence of the University's actions to respond to Sexual Violence and Misconduct education, reduction and prevention, support and investigation. Information and records must be retained and disposed of in accordance with a records retention schedule approved by the University Archivist.

15.0 POLICY MONITORING, EVALUATING, REVIEW AND REPORTING

15.1 The Sexual Violence Support and Prevention Office will undertake a systematic approach to monitoring and evaluating this policy and its associated procedures and practices to ensure that they are responsive to evolving needs and the evolving environment. This includes but is not limited to:

- a. Reporting annually through the President to the Board of Governors on the implementation of this policy;
- b. Periodic reviews of the University's training and educational initiatives related to Sexual Violence and Misconduct; and
- c. Reviewing this policy at least once every three years, in consultation with students and other members of the University Community.

16.0 AUTHORITY

16.1 This policy is administered under the authority of the Vice-President, Academic and Provost.

17.0 INTERPRETATION

17.1 Questions of interpretation and application of this policy or its procedures shall be referred to the Vice-President, Academic and Provost and the University's General Counsel, who will jointly make a decision, which will be final.