

<b>University of Prince Edward Island</b>	<b>Policy No.</b> TBA	<b>Revision No.</b> 0
<b>Policy Title:</b> Sexual Violence Policy		<b>Page 1 of 34</b>
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## A. Preamble

1. This Policy has been developed by and for our University community. It is rooted in the right and responsibility we all share to a culture of trust, safety and inclusion in our teaching, learning, research, work and all that we do at the University. We all have a role to play in building that culture; our community thrives when we treat each other with respect, and value each other's contributions.
2. The University has the ethical and legal responsibility to maintain an environment free of Sexual Violence. That responsibility includes awareness of what constitutes Sexual Violence, delivering proactive education, ensuring persons occupying positions of authority are monitoring the environment in their area(s) and are knowledgeable of Disclosure and Reporting procedures and are responding to Sexual Violence in a timely and effective manner. Nothing in this Policy precludes the right of the University to take action as may be necessary to meet this ethical and legal responsibility, as outlined in this Policy.
3. The University recognizes that Sexual Violence is inherently connected to historical disadvantage and power imbalances on campus and in our society, including the intersection of social oppressions such as racism, sexism, homophobia, transphobia, classism, ableism, and the legacies of colonization and residential schools. Sexual Violence can affect individuals of all gender identities, gender expressions, and sexual orientations.
4. The University recognizes that Sexual Violence is underreported for a variety of reasons, including shame, stigmatization, self-blame, and fear of re-traumatization, Reprisal, isolation, ostracism or of being dismissed or disbelieved.
5. This Policy protects against the 'silencing' of those who make a Disclosure or Report of Sexual Violence, by restricting the use of non-disclosure agreements and prohibiting Reprisal and threats of Reprisal.
6. This Policy protects the agency and choices of the person making a Disclosure or Report, while affording procedural fairness to all Parties.

## **B. Purpose**

7. The purpose of this Policy is to:
  - a. increase awareness, education, and mandatory training about Consent, including in the context of power imbalances; Sexual Violence; and the impact of Sexual Violence;
  - b. to provide a mechanism for the prevention of Sexual Violence at the University and in the conduct of University business; and
  - c. to provide a process to investigate and address Reports of Sexual Violence in a fair, timely, consistent, and Trauma-Informed manner. Its purpose is also to raise awareness of Sexual Violence, including implementing mandatory training, and to address issues relating to consent and power imbalances.
8. This Policy has been developed to outline the measures the University is taking to prevent, investigate, and address Sexual Violence consistent with the requirements of applicable legislation, including the *Post-secondary Institutions Sexual Violence Policies Act* (the “Act”) and the accompanying regulations to the Act (the “Regulations”), *Human Rights Act*, *Occupational Health and Safety Act Workplace Harassment Regulations*, and the *Non-disclosure Agreements Act*.

## **C. Scope and Application**

9. This Policy applies to all Members of the University Community with respect to alleged incidents of Sexual Violence that occur, whether on or off campus and through any medium (including electronic):
  - a. In the course of University-related programs, operations, or activities;
  - b. Using University-owned or run property or equipment;
  - c. While participating in University-sponsored or sanctioned activities, events or organizations; or
  - d. In the context of non-University activities where the conduct has a material negative impact on a Member of the University Community’s living, learning or working environment and in a context where the conduct has a substantial connection to the University.
10. When allegations of Sexual Harassment are raised, the Safe Disclosure Officer will consult the Harassment and Discrimination Policy to determine which policy best applies to the matter. Allegations of Sexual Harassment will normally proceed under this Policy unless the matter also includes allegations of Discrimination or Harassment falling within the scope of the Harassment and

Discrimination Policy. In such circumstances, the Investigator's terms of reference may include consideration of all relevant and appropriate intersecting issues and policies. For greater clarity, a party is not permitted to make separate Reports under both policies or, after exhausting the processes in one policy, to proceed under the other policy.

#### **D. Definitions**

11. In this Policy:

- a. "Academic Freedom" has the meaning set out in the Collective Agreement between the University and the University of Prince Edward Island Faculty Association, and includes the freedom to teach and conduct scholarly work guided by curiosity and intellectual inquiry, without deference to prescribed doctrine and free from institutional censorship. The right to academic freedom carries with it the duty to use that freedom in a responsible way.
- b. "Accommodations" means reasonable adjustments to a person's own living, learning, or working environment to eliminate barriers to their participation in University life. Examples of accommodations include student residence relocation, class schedule changes, academic accommodations, temporary work location reassignment, and work scheduling changes.
- c. "Appropriate Vice-President" means the Vice-President within the reporting line of the Reporter or Respondent, as the context requires.
- d. "Conflict of Interest" has the meaning set out in the University's Conflict of Interest Policy, and includes any situation where a person with responsibilities under this Policy has a private or personal interest that does, may be perceived to, or has the potential to influence the objective exercise of their responsibilities. A Conflict of Interest exists where a person with responsibilities under this Policy is a Process Participant.
- e. "Consent" means active, ongoing, informed, and voluntary agreement to engage in sexual activity, and to continue to engage in sexual activity. Consent means that all persons involved expressly demonstrate through words or actions that they freely and mutually agree to participate in the sexual activity.

The following principles apply.

- i. Consent must be obtained at the outset and at all stages of sexual activity on an ongoing basis.
- ii. Consent cannot be implied or assumed from passivity, immobility or an absence of resistance or perceived resistance.

- iii. Silence, or the absence of "no", is not consent.
  - iv. Consent cannot be given by someone who is incapacitated, unconscious, intoxicated, or otherwise incapable of consenting. A person's state of intoxication is not a defence to sexual contact without consent.
  - v. Past consent earlier in the day or night in question, or on previous occasions, does not imply contemporary, ongoing, or future consent.
  - vi. Consent may be withdrawn anytime.
  - vii. Consent cannot be given in circumstances where one person abuses a position of trust, power or authority over another person. (See also the Conflict of Interest Policy).
  - viii. Consent cannot be given in circumstances where there exists a threat, coercion, or other form of control or intimidation, which includes abuse of a position of trust, power, or authority, fraud, or withholding of critical information that could affect a person's decision to give consent.
  - ix. A person cannot rely only on their subjectively held (mistaken) belief that another person is communicating consent, but must take active and ongoing reasonable steps to confirm consent.
  - x. It is the responsibility of the person who wishes to initiate sexual activity to obtain consent from other persons involved.
  - xi. Consent may be given through different, but clear methods of communication, in circumstances where a person has a condition that limits their verbal or physical means of communication.
  - xii. The definition of consent does not vary based on a person's sex, sexual history, sexual orientation, gender identity, or gender expression.
- f. "Day" means a day from Monday to Friday, and excluding holidays, on which the offices of the administration of the University are open, unless otherwise specified.
  - g. "Disclosure" refers to the sharing of information by a Member of the University Community with a Safe Disclosure Officer about an experience of Sexual Violence. A Disclosure may be made by someone who believes they are a witness to Sexual Violence, but who is not the subject of the Sexual Violence.

- h. “Immediate Measures” are non-disciplinary conditions that may be imposed upon a Respondent where there are allegations in a Disclosure or Report that would, if proven, constitute Sexual Violence, and the measures are necessary to maintain the safety security, or academic, residence, or employment well-being of any Member of the University Community; preserve the confidentiality and integrity of this policy and its processes; or discourage or prevent retaliation or other disruption to, or interference with, the operations of the University or activities of Members of the University Community.
- i. “Intersectional” refers to an approach that acknowledges the integrative nature of social identities and social oppressions (e.g., experiences of sexism, homophobia, transphobia, racism, classism and ableism). An intersectional approach to Sexual Violence recognizes that people have multiple interrelated identities, and that Sexual Violence can exist because of how these identities intersect or overlap, producing something unique and distinct from any one form of Sexual Violence standing alone.
- j. “Investigator” means a qualified, experienced and trained individual external to the University and available to conduct an Investigation under this Policy.
- k. “Member of the University Community” means alumni, contractors, employees (faculty, including Department Chairs, Coordinators and Directors, and staff), members of the Board of Governors, students, union employees, union representatives, University Administrators, visitors. “Member of the University Community” may include individuals who are no longer Members of the University Community but who were Members of the University Community at the time an alleged incident of Sexual Violence occurred.
- l. “Party” or “Parties” refers to the Reporter(s) and/or Respondent(s) named in a Disclosure or Report.
- m. “this Policy” means the University of Prince Edward Island Sexual Violence Policy.
- n. “Process Participant” means an individual who participates in any process outlined in this Policy, including but not limited to the Parties, individuals with relevant knowledge of alleged events, or those directly affected by alleged events.
- o. “Protected Ground” means (listed alphabetically): age, ancestry or place of origin, colour, creed, disability, ethnic or national origin, family status, gender expression, gender identity, marital status, nationality, physical size or weight, political belief, pregnancy, race, religion, romantic orientation, sex, sexual orientation, or source of income of any individual or class of individuals, and any other grounds or personal characteristics

protected under the *Human Rights Act* or the *Workplace Harassment Regulations*. Protected Grounds may intersect to create a unique experience of Sexual Violence.

- p. “Reprisal” means any retaliation or negative consequence, or threat of retaliation or negative consequence, against any person on account of making a Disclosure, Report, or an expressed intention to make a Disclosure or Report under this Policy, or on account of evidence or assistance given with respect to a Report under this Policy. Reprisal may include any action that adversely affects an employee with respect to terms or conditions of employment or opportunity in employment; or any action that adversely affects a student’s academic opportunity or assessment. Reprisal is prohibited by this Policy.
- q. “Report” means an allegation, made or captured in writing, to a Safe Disclosure Officer alleging a violation of this Policy. A Report may be made by a Reporter or a Surrogate, or may be initiated by the University.
- r. “Reporter” means a Member of the University Community:
  - i. who is the subject of an alleged violation of this policy and who makes a Disclosure or Report under this policy; or
  - ii. is one of a group of people who are the subject of the same alleged violation of this policy, for which a Report has been submitted under this policy with the consent of everyone in the group.
- s. “Respondent” means the person or University office identified in a Disclosure or Report who is alleged to have violated this Policy. It is understood that the use of the singular Respondent does not preclude the possibility of multiple Respondents in context.
- t. “Safe Disclosure Officer”, for the purposes of this Policy, means one or more employees of the Department of Equity, Diversity, Inclusion and Human Rights designated and trained to receive and respond to Disclosures and Reports under this Policy, and may include the Sexual Violence Prevention and Response Officer.
- u. “Sexual Assault” is an offence under Canada’s *Criminal Code* and is a form of Sexual Violence under this Policy, and refers to:
  - i. Any form of unwanted, forced, or coerced sexual activity, including kissing, fondling, touching, and any kind of penetration, that is done onto the Member of the University Community without their Consent; or
  - ii. Any attempts or threats, by an act or gesture, to force sexual activity onto the Member of the University Community, if the person committing the act had or caused the Member of the University

Community to believe the person committing the act had the present ability to act on the attempted threat.

- v. “Sexual Harassment” means any conduct, comment, gesture or contact of a sexual nature (a) that is likely to cause offence or humiliation to a Member of the University Community; or (b) that might, on reasonable grounds, be perceived by that Member of the University Community as placing a condition of a sexual nature on their role at the University, including, for example, as a student, or employee or in their participation in University activities.
- w. “Sexual Violence”, as defined by the *Act*, means any sexual act or act that targets 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, but is not limited to:
  - i. Sexual Assault
  - ii. Sexual Harassment
  - iii. stalking
  - iv. indecent exposure (public exposure of genitals or nudity);
  - v. voyeurism (surreptitious observation or recording of a person for a sexual purpose in circumstances that give rise to a reasonable expectation of privacy);
  - vi. sexual exploitation (sexual touching of a young person in relation to whom one occupies a position of trust or authority);
  - vii. stealthing (the non-consensual or surreptitious removal or damaging of a condom or other protective device); and
  - viii. the distribution of a sexually explicit photograph or video of a person to one or more persons other than the person in the photograph or video without the consent of the person in the photograph or video.

Additional examples of Sexual Violence could include:

- ix. the distribution of a sexually explicit image or altered image with likeness or other misinformation;
- x. hazing;
- xi. AI generated content.

- x. “Substituted Authority” means a supervisor or next level of authority who assumes the responsibilities of a person or Office under this Policy in circumstances where the person or Office is a Process Participant.
- y. “Surrogate” means a person who, on behalf of a Reporter and with their consent, submits a Report under this policy, and may include a supervisor, a University Administrator, or a union representative.
- z. “Trauma-Informed” refers to an approach that takes into consideration the profound and complex physical, psychological, and social (biopsychosocial) impacts of trauma on an individual. Trauma-Informed practices are intended to minimize the negative impacts of sharing Disclosures and Reports, recognizing that the processes for responding to Sexual Violence may, in themselves, be stressful, traumatizing and harmful for Process Participants. Examples of Trauma-Informed practices include, but are not limited to:
  - i. providing choice and flexibility whenever practicable, subject to reasonable limits identified in this Policy;
  - ii. providing as much information in advance as possible, including clarity about choices regarding confidentiality and privacy;
  - iii. providing regular updates to and check-ins with Parties, as appropriate;
  - iv. making best efforts to minimize process delays;
  - v. eliciting sensitive information from Process Participants on a need-to-know basis so that they are not required to share their experiences multiple times;
  - vi. refraining from asking irrelevant questions or making assumptions based on irrelevant factors such as immutable characteristics or identity expression; and
  - vii. facilitating processes and communications under this Policy with sensitivity to any Intersectionalities, given the social identities of participants.
- aa. “University” means the University of Prince Edward Island, its related companies, institutions and organizations, including any entities it partially or wholly owns or controls;
- bb. “University Administrator” means the President, a Vice-President, an Associate Vice-President, the Chief Information Officer, the Director of Human Resources, the Chief of Staff, a Dean, the University Librarian, or an Associate Dean.

cc. “Good Faith” means, in the context of making a Disclosure or submitting a Report, the genuine belief by the Reporter that the Disclosure or Report is accurate and with merit. A Report may have been made in Good Faith even if it is ultimately found to be unsubstantiated.

#### **E. Principles of Application (presented in alphabetical order)**

12. Academic Freedom: The freedom to teach and conduct scholarly work guided by curiosity and intellectual inquiry, without deference to prescribed doctrine, is fundamental to our University. Academic freedom can only be achieved in an environment in which Sexual Violence is not tolerated.
13. Confidentiality: the University recognizes the importance of confidentiality for everyone involved in an allegation of Sexual Violence. The University will make every reasonable effort to balance confidentiality with its legal responsibility to provide a work and study environment free from Sexual Violence, as outlined in this Policy.
14. Cumulative impact: It is important for the University to track trends and cumulative incidents that contribute to risk of violations of this Policy so that proactive measures may be taken.
15. Freedom from Reprisal: Members of the University Community have a right to participate in proceedings under this Policy without fear of Reprisal.
16. Freedom of expression: Freedom of expression, protected under the Canadian Charter of Rights and Freedoms, encourages the search for truth through the open exchange of ideas, and fosters individual self-fulfillment through expression and participation in social and political decision-making. Freedom of expression is a cornerstone of scholarship at the University. The PEI University Act also specifies the freedom of the University to be a place open to expression of all doctrines, and creeds, religious, political or philosophical. Like other rights, freedom of expression is not an absolute right, nor is it a defence to Discrimination or Harassment.
17. Intersectionality: this Policy recognizes that various identities come together to shape a person or group’s experience in the world and their treatment by others, and that Sexual Violence disproportionately impacts Members of the University Community with intersecting identities protected under this Policy.
18. Power imbalances: Power imbalances are inherent and systemic in post-secondary institutions. Power imbalances can be exploited or prevent the reporting and management of Sexual Violence. This Policy recognizes, for example, that Members of the University Committee with responsibility for leading, managing, teaching, advising, supervising, mentoring, or evaluating, may hold positions of power, trust, and authority relative to others. Power imbalances can also obscure or exacerbate proper and improper behaviour and

interpersonal relations. The University strives to create policy that respects all Members of the University Community without deference to power. The University recognizes that one of the purposes of human rights laws and policies against Sexual Violence is to assist members of groups that have been historically disadvantaged and disempowered in our society.

19. Procedural fairness: Parties have the right to procedural fairness at every stage or point of decision under this policy, including the right to an unbiased decision-maker, the right to notice, the right to be heard, the right to a timely process, and the right to reasons for decisions. Procedural fairness also requires the avoidance of Conflicts of Interest. When Conflicts of Interest arise in any process under this Policy, they will be identified and addressed in accordance with this Policy and the University's Conflict of Interest Policy.
20. Safe disclosure: Members of the University Community who experience or witness incidents of Sexual Violence have the right to Disclose or Report those incidents in a manner where they feel safe, without fear of Reprisal, particularly in circumstances of a power imbalance between individuals.
21. Trauma-Informed: This Policy acknowledges the harm endured by Reporters and survivors along with having awareness of the impacts that trauma has on an individual's emotional, cognitive, physical and sexual wellbeing.<sup>1</sup> All processes under this Policy will be consistent with Trauma-Informed practice.

#### **F. Statement of Commitment**

22. All Members of the University Community are entitled to a working, studying and living environment free from Sexual Violence as defined by this Policy.
23. The University will appropriately accommodate the needs of persons affected by Sexual Violence, relating to work, study, housing, or extracurricular activities.
24. All Members of the University Community have a right to participate in processes under this Policy without fear of Reprisal or retribution.
25. As required by law, the University commits that it will:
  - a. prevent Sexual Violence as far as reasonably practicable;
  - b. take corrective action to address incidents of Sexual Violence;

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<sup>1</sup> (source: Eerkes, D., De Costa, B. & Jafry, Z. (2021). A Comprehensive Guide to Campus Gender-Based Violence Complaints: Strategies for Procedurally Fair, Trauma-Informed Processes to Reduce Harm. Possibility Seeds' Courage to Act: Addressing and Preventing Gender-Based Violence at Post-Secondary Institutions in Canada, page 18)

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- c. not reprimand, seek Reprisal, or discriminate against a Member of the University Community who has made a Disclosure or Report in Good Faith;
- d. take corrective action against those who reprimand, seek Reprisal, or discriminate against a Member of the University Community who has made a Disclosure or Report in good faith;
- e. for all Members of the University Community, provide prevention education activities as well as training on Sexual Violence issues, this Policy, and its process for responding to and addressing Sexual Violence.

### **G. Prevention and Education**

- 26. The Department of Equity, Diversity, Inclusion, and Human Rights will develop and disseminate information and Trauma-Informed training specific to the culture, conditions, and activities of the University, to Members of the University Community about the following topics:
  - a. Sexual Violence;
  - b. How to recognize, minimize, prevent, and respond to Sexual Violence in the University;
  - c. this Policy and its processes;
  - d. relevant elements of related University policies and legislation;
  - e. available supports; and
  - f. Trauma-Informed practices and how to appropriately support and refer individuals who share information about an experience of Sexual Violence.
- 27. The Department of Equity, Diversity, Inclusion, and Human Rights will collaborate with on-campus groups, such as student groups, to develop and implement strategic initiatives related to campus Sexual Violence prevention, such as campaigns, training, workshops, print and online resources, and events on topics related to Sexual Violence on campus, such as Consent and bystander intervention.
- 28. The Department of Equity, Diversity, Inclusion, and Human Rights shall develop and disseminate information and training for University Administrators, Department Chairs, and others in supervisory roles on their roles and responsibilities under this Policy.
- 29. The Department of Equity, Diversity, Inclusion, and Human Rights shall ensure that information and training are regularly reviewed and updated; that all students, faculty, and staff receive appropriate training as soon as possible after

joining the University community; that faculty and staff receive appropriate training no less than every four years; and that students receive appropriate training at least once during their degree.

#### **H. Roles and Responsibilities (presented in alphabetical order)**

30. All Members of the University Community, including faculty, staff, and students, have a shared responsibility to foster and maintain University working, learning, and living environments that are free from Sexual Violence. Members are responsible generally to inform themselves of this Policy, attend mandatory training, and refrain from behaviour that violates this Policy. Members who experience or witness conduct that may be prohibited by this Policy are encouraged to share their concerns with a Safe Disclosure Officer.
31. Board of Governors: has the fiduciary duty to perform the powers laid out in the *University Act* to ensure the success, integrity, financial, and administrative sustainability of the university. Within that broad duty, the Board of Governors has the responsibility to approve this Policy, approve periodic renewals of this Policy, address allegations of violations of this policy where the Respondent is the President or a member of the Board of Governors.
32. Department of Equity, Diversity, Inclusion, and Human Rights: reports to the Vice-President, People & Culture and has a communication line directly to the Board of Governors with respect to matters of this policy. The Department is generally responsible for administering this policy, including:
  - a. ensuring a copy of this Policy is readily available to Members of the University Community;
  - b. establishing and publishing rules, plain-language companion materials, summaries, guidelines and forms in respect of processes under this Policy;
  - c. establishing and delivering training, which may be mandatory or optional, for the University community in the interpretation and application of this Policy and the prevention of Sexual Violence;
  - d. maintaining appropriate records both by incident and cumulative, and maintaining confidentiality over those records, subject to all applicable policies, processes, and laws;
  - e. tracking trends, patterns, or cumulative incidents to identify and address risks of Sexual Violence in the University;
  - f. aggregate reporting to the Vice-President, People & Culture on matters relating to this Policy; and

g. undertaking those responsibilities expressly set out in this Policy.

The contact information (phone numbers, email and mailing addresses) and location on campus for the Department of Equity, Diversity, Inclusion and Human Rights will be included on the University website, along with information about the individuals working in the Department.

33. Safe Disclosure Officers are the first point of contact on campus for Members of the University Community to address questions about this Policy, and to assist with engaging the Policy. Safe Disclosure Officers are responsible to coordinate supports and services available at the University to Members of the University Community and Reporters who are affected by Sexual Violence, as well as to Respondents under this Policy. The contact information (phone number, email and mailing addresses) and location on campus for Safe Disclosure Officers will be included on the University website.
34. University Administrators, Department Chairs, and others in supervisory roles: University Administrators, Department Chairs, and others in supervisory positions are expected to personally uphold the Policy at all times, to monitor the environment in their area(s), to be knowledgeable of this Policy and its processes, and to inform those who share concerns about Sexual Violence about this Policy and the Safe Disclosure Officers. In some circumstances, University Administrators have an obligation to consult confidentially with the Department of Equity, Diversity, Inclusion and Human Rights about concerns of Sexual Violence that are brought to their attention.
35. Unions: are advocates for building a culture of safety, trust and inclusion. They build awareness of this Policy, and represent and support their members throughout its processes.
36. Vice President, People & Culture: has the responsibility to monitor the effectiveness of this Policy and recommend amendments for approval of the Board of Governors, to oversee the effectiveness of the Department of Equity, Diversity, Inclusion & Human Rights, in its administration of this Policy, and to report to the President and Board of Governors in that regard, as may be directed by the President or Board of Governors.
37. Vice-Presidents: Vice Presidents are responsible for remedial and/or corrective action following the investigation of a Report.

#### **I. Intimate Personal Relationships**

38. Members of the University Community in positions of power, trust and authority (including but not limited to leading, managing, teaching, advising, supervising, mentoring or evaluating) are responsible for maintaining integrity and professionalism in their relationships with other Members of the University

Community. The onus is on the individual in a position of power to set and maintain appropriate relationship boundaries.

39. No Member of the University Community shall use or abuse a position of power, trust or authority to coerce intimate or sexual activity with another Member of the University Community. Consent cannot be given where a person is induced to engage in the activity by someone abusing a position of trust, power or authority.
40. Where a consensual intimate personal relationship between Members of the University Community may give rise to a Conflict of Interest, the relationship must be promptly disclosed to the applicable conflicts officer, who will address the matter according to the Conflict of Interest Policy.

## **J. Confidentiality**

41. The University shall not disclose any identifying information about any person involved or the circumstances relating to a Disclosure or Report unless disclosure is necessary for the purposes of administering the procedures of this Policy, including investigating a Report, providing supports and accommodations, or implementing Immediate Measures. In all cases, the least amount of information possible will be shared.
42. Confidentiality may also be limited in circumstances where a serious safety risk exists or the university has a legal obligation to share information. Examples of these circumstances include:
  - a. where the Department of Equity, Diversity, Inclusion, and Human Rights, in consultation with university administrators as appropriate, has identified a serious and credible risk of harm to a member of the university community or another person;
  - b. where there is a legal duty to report to authorities, such as a duty to report abuse under the *Child, Youth and Family Services Act*;
  - c. to respond to a subpoena or otherwise where the University has a legal obligation to cooperate in an extra-university judicial process.
43. In any event, the disclosure of identifying information shall be subject to the University's obligations pursuant to the law, including but not limited to, the *Freedom of Information and Protection of Privacy Act* and *Health Information Act*.
44. Process Participants have a duty to maintain confidentiality to preserve the integrity of the processes under this Policy. Process Participants may discuss matters with support persons and professional advisors, who will be required to maintain confidentiality in accordance with this Policy.
45. All records produced under this Policy shall be maintained by the Department of Equity, Diversity, Inclusion, and Human Rights as required and permitted by the

law, applicable collective agreements, and any applicable University policies governing data and record collection and retention.

46. For reporting purposes, the Department of Equity, Diversity, Inclusion, and Human Rights may disclose aggregate information about Disclosures and Reports and their outcomes so long as information is provided without personal information or other information that may identify individuals.
47. The use of non-disclosure agreements is prohibited under this Policy except in the limited circumstances permitted by the *Non-disclosure Agreements Act* and the University's Policy on Non-Disclosure Agreements in Harassment and Discrimination.

#### **K. Sharing or receiving a concern about Sexual Violence**

48. A Member of the University Community who believes they may have witnessed or experienced Sexual Violence at the University may choose to share their concern or seek assistance from a trusted friend, mentor, colleague, union representative, professor, supervisor, Department Chair, University Administrator, or human resources. Sharing a concern or seeking assistance informally does not constitute a Disclosure or Report under this Policy.
  49. A Member of the University Community who learns of a concern of Sexual Violence should listen compassionately without judgment, apply Trauma-Informed practices, and inform the individual about this Policy and Safe Disclosure Officers.
  50. A Member of the University Community who learns of a concern of Sexual Violence may seek advice, in confidence, from a Safe Disclosure Officer about how best to respond and provide support.
  51. A University Administrator who learns of a concern of Sexual Violence must consult with a Safe Disclosure Officer if:
    - a. there is a reasonable prospect that a Party poses a serious and credible risk of harming themselves and/or another person;
    - b. there is a reasonable prospect that one or more Members of the University Community poses a serious and credible risk of harm based on information that has been provided;
    - c. there may be a legal obligation to investigate, such as under the *Occupational Health and Safety Act Workplace Harassment Regulations*;
    - d. the concern relates to the alleged conduct of another University Administrator;
    - e. the concern involves three or more potential Reporters or Respondents;
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- f. the concern is similar to another concern previously raised about the same individual; or
  - g. the concern may substantially impact the learning or working environment for a significant proportion of members of the affected unit.
52. A Member of the University Community who believes they may have violated this Policy is encouraged to proactively disclose the matter to a Safe Disclosure Officer for advice and possible early resolution.

## **L. Procedures – General Principles**

### *Individual supports*

53. Process Participants may choose to have a support person present at all steps in the processes of this Policy. A support person may include, for example, a trusted friend, colleague, union representative, Elder, translator, therapist, spouse, parent, or lawyer. The chosen support person takes the role of observer or emotional support and should not be a likely witness in any Investigation of the matter.
54. The Process Participant may speak freely about their experiences with their support person at any time during the process. Support persons are subject to confidentiality provisions in Section I of this Policy.

### *Option to Report to Police*

55. A Reporter who makes a Disclosure or Report of an allegation that may constitute an offence under the *Criminal Code*, such as a Sexual Assault, will be provided with information about the option to report to police. Unless otherwise required by law, a Reporter's decision to report or not to report to the police shall be respected.
56. If a Reporter chooses to report Sexual Violence to the police, they may also, at any time, make a Disclosure or Report under this Policy. If a matter is subject to a criminal investigation or proceeding, the Vice-President, People and Culture may decide to defer any process in this Policy until such time as the criminal investigation or proceeding has concluded. This discretion must be exercised with regard to the University's obligation to maintain a safe campus environment free from Sexual Violence.
57. Where the Vice-President, People and Culture, defers a process under this Policy pending a criminal investigation or proceeding, the Vice-President, People and Culture, may require the Respondent to update the Department of Equity, Diversity, Inclusion and Human Rights on any conditions of release or related orders, or disposition of charges.

### *Alternative or external proceedings*

58. Nothing in this Policy is intended to discourage, prevent, or preclude a Member of the University Community from initiating an alternative proceeding, such as a complaint with the PEI Human Rights Commission in accordance with the *Human Rights Act*, a civil action, or grievance arbitration, or from accessing supports provided for students. If an alternative proceeding has commenced, the University retains the discretion to suspend the procedures outlined in this Policy pending resolution of the alternative proceeding. This discretion must be exercised with regard to the University's obligation to maintain a safe environment free from Sexual Violence.
59. Immediate Measures may be implemented despite a deferral of process under sections 56 or 58.

### *Reporter-Led Process*

60. The Reporter may decide to stop participating in the processing of their Report, withdraw their Report, or discontinue any accommodations or Immediate Measures provided through the Disclosure or Report process at any time. The University will decide whether any investigation shall proceed as a University-Initiated Report based on its analysis of the considerations in section 103 of this Policy.

### *Student Amnesty*

61. The University will not use information from a Disclosure or Report of Sexual Violence to initiate disciplinary proceedings against a Reporter, Respondent, or any other student relating to drug or alcohol use or possession at the time the alleged Sexual Violence occurred.

### *Conflicts of Interest*

62. A Safe Disclosure Officer, the Vice-President, People and Culture or their delegate, a Substituted Authority, or any other Member of the University Community who receives information to carry out their responsibilities under this Policy, shall disclose any actual or potential Conflict of Interest with respect to a Disclosure or Report in accordance with the University's Conflict of Interest Policy.
63. Where a Process Participant is aware or has reasonable grounds to believe that an undisclosed actual or potential Conflict of Interest exists with respect to a Disclosure or Report, they shall report the matter to a Safe Disclosure Officer (or their Substituted Authority). In such circumstances, the Safe Disclosure Officer (or their Substituted Authority) shall be deemed to be the Conflicts Officer for purposes of the University's Conflict of Interest Policy, and the matter shall be addressed in accordance with that policy. Appeals under the Conflict of Interest Policy shall be determined by the Vice-President, People and Culture, or their Substituted Authority.

*Substituted Authorities*

64. No Disclosure or Report under this Policy will be evaluated, investigated, or administered by a person who is a direct or indirect report of a Respondent to that Disclosure or Report.
65. If the Respondent is a Safe Disclosure Officer or a member of the Department of Equity, Diversity, Inclusion and Human Rights, the person may make a Disclosure or Report to the Vice-President, People and Culture, or another University Administrator. The responsibilities usually assigned to a Safe Disclosure Officer and/or Department of Equity, Diversity, Inclusion, and Human Rights, will be assumed by the Vice-President, People and Culture or another University Administrator selected by the President, who can then in turn delegate as appropriate and in a manner that avoids Conflicts of Interest.
66. If the Respondent is a Vice-President, the Reporter may make a Disclosure or Report directly to the President.
67. If the Respondent is the President, the Reporter may make a Disclosure or Report directly to the Chair of the Board of Governors.
68. If the Respondent is a member of the Board of Governors, the Reporter may make a Disclosure or Report directly to the Chair of the Board of Governors.
69. If the Respondent is the Chair of the Board of Governors, the Reporter may make a Disclosure or Report directly to the Vice-Chair of the Board of Governors or, via the University Secretary, the Board of Governors.
70. If a Disclosure or Report is made to the President, Chair of the Board of Governors, Vice-Chair of the Board of Governors, or the Board of Governors under sections 66-69, all responsibilities usually assigned to the Department of Equity, Diversity, Inclusion and Human Rights and Vice-Presidents will be assumed by an ad hoc committee of the Board of Governors, who may seek external advice and/or delegate their authority to external expert(s) or consultant(s).

### *Timelines*

71. Where this Policy prescribes timelines for action, timelines may be adjusted or extended at the request of a Party or an Investigator to the Department of Equity, Diversity, Inclusion, and Human Rights or Substituted Authority. Requests for extensions will not be unreasonably withheld. The University may also adjust timelines where necessary to preserve the integrity of this Policy and its processes; to ensure procedural fairness; with reference to the University's duty to accommodate; or as may be required by law.

### **M. Disclosures of Sexual Violence**

72. A Disclosure and a Report are separate actions a Reporter can choose to take.
73. A Disclosure does not result in a Report being made and does not initiate an Investigation under this Policy.
74. A Member of the University Community who believes they have been the subject of, or a witness to, a violation of this Policy, should make a Disclosure to a Safe Disclosure Officer.
75. The Safe Disclosure Officer will listen compassionately without judgment, apply Trauma-Informed practices, and inform the Member of the University Community about this Policy.
76. If requested, the Safe Disclosure Officer shall provide advice to the person regarding their options under this Policy, which include:
  - a. requesting supports, services, or Accommodations; and/or
  - b. requesting Immediate Measures; and/or
  - c. engaging Alternative Resolution; and/or
  - d. submitting a Report for investigation under this Policy; and
  - e. reporting options outside the University, such as to the police.

### **N. Supports, Services, and Accommodations**

77. On receiving a Disclosure or Report, the Safe Disclosure Officer will ask the Reporter what their needs are, and will inform the Reporter of additional supports and services available, including:
  - a. Safety planning and protective measures;
  - b. Advocacy and counselling services; and

c. Accommodations.

78. Accommodations are reasonable adjustments to a person's own living, learning, or working environment to eliminate barriers to their participation in University life. Examples of accommodations include student residence relocation, class schedule changes, academic accommodations, temporary work location reassignment, and work scheduling changes. If a Reporter requests accommodations, the Safe Disclosure Officer will assist the Reporter in accessing accommodations while maintaining confidentiality.
79. If a student is affected by Sexual Violence, the University will work with that student to determine the appropriate accommodations required based on the student's experiences and expressed needs, which may include, but not limited to, the following academic and non-academic accommodations:
- a. change in academic supervision;
  - b. timeline to completion for extensions for courses, exams and assignments;
  - c. course section reassignment;
  - d. resident relocation;
  - e. approved leave.

Additionally, Appendix A contains information about the supports and services available at the university to students and other Members of the University Community who are affected by Sexual Violence, as well as to Respondents under this Policy.

**O. Immediate Measures**

80. The Department of Equity, Diversity, Inclusion and Human Rights, in consultation with appropriate University Administrators or offices, may coordinate the implementation of Immediate Measures at any time following a Disclosure or Report.
81. Immediate Measures are non-disciplinary conditions that may be imposed upon a Respondent where there are allegations in a Disclosure or Report that would, if proven, constitute Sexual Violence, and the measures are necessary to:
- a. maintain the safety, security, or academic, residence, or employment well-being of any Member of the University Community;
  - b. preserve the confidentiality and integrity of this policy and its processes;

- c. discourage or prevent retaliation or other disruption to, or interference with, the operations of the University or activities of Members of the University Community.

Immediate Measures shall be reasonable and justifiable having regard to the interests of the Respondent and the purpose of the Immediate Measures.

82. The following factors will be considered in determining whether to impose Immediate Measures:
- a. the wishes and expressed needs of the Reporter, if any;
  - b. the impact of the proposed measures on the Respondent;
  - c. if available, the views of the Respondent, including any views as to the availability of alternate, less restrictive measures;
  - d. the nature and seriousness of the alleged conduct and its impact on the Reporter and/or University community; and
  - e. compliance with any applicable collective agreement or contract of employment.
83. Options for Immediate Measures may include, but are not limited to, one or more of the following:
- a. changes to class schedules or university-run living arrangements;
  - b. no contact agreements;
  - c. restrictions on attendance on campus, or parts of campus;
  - d. restrictions on participation in University-affiliated activities or other campus privileges;
  - e. temporary administrative (non-disciplinary) leave without loss of pay;
  - f. temporary removal of employment duties, without loss of pay;
  - g. temporary removal or transfer of a person;
  - h. the cancellation or rescheduling of an event;
  - i. the issuance of a notice or communication to individuals or groups;
- but shall not include, prior to an Investigation, sanctions impeding progress in an academic or research program, or disciplinary action of any individual for an alleged violation of this Policy.
84. The Department of Equity, Diversity, Inclusion & Human Rights will give written notice to the Respondent of any Immediate Measures being imposed without

delay. In the case of a unionized Respondent, the notification shall include a statement informing them of their right to consult with their union. Immediate Measures come into effect upon notice to the Respondent. The Reporter shall be provided with information about the terms of Immediate Measures that impact the Reporter.

85. A person subject to Immediate Measures may challenge them by submitting a written request for reconsideration to the Appropriate Vice-President within ten (10) days of their imposition, or within ten (10) days of any material change in circumstances. The Vice-President will deliver a written decision on the request. Where the person upon whom Immediate Measures have been imposed is a unionized employee, the employee may take steps under the provisions of the applicable collective agreement. Immediate Measures will remain in effect during any period of request for reconsideration.
86. In circumstances where no Report has been made and no Investigation initiated, Immediate Measures may remain in place indefinitely where:
  - a. The Respondent consents to the continuation of the Immediate Measures;
  - b. The Immediate Measures meet the needs of the Reporter and that person consents; and
  - c. The Immediate Measures address the safety, remedial, and other responsibilities of the University.

#### **P. Alternative Resolution**

87. Alternative Resolution may be initiated after either a Disclosure or a Report. Alternative Resolution is voluntary, requiring the informed consent of all Parties involved.
88. An Early Resolution Officer in the Department of Equity, Diversity, Inclusion and Human Rights will work with involved Parties to identify desired outcomes. The Early Resolution Officer will design and coordinate remedial, educational, and/or facilitated processes to achieve those outcomes, appropriate to the nature of the Disclosure or Report, the circumstances, and the Parties' needs. Examples of Alternative Resolution could include:
  - a. supporting the Reporter to address their concerns directly with the Respondent;
  - b. impact statement, letter, or video, in which the Reporter communicates to the Respondent about their experience and impact of the Respondent's conduct;

- c. facilitation or mediation: an Early Resolution Officer or other employee in the Department of Equity, Diversity, Inclusion and Human Rights or other qualified person facilitates a discussion or mediation between the Parties with the goal of developing mutual understanding of the incident(s) and mutually agreeable resolution;
  - d. no contact: Parties agree to have no contact for a period of time or as long as one or both of them are Members of the University Community;
  - e. education: the Department arranges coaching, support, or remedial educational opportunities for the Respondent or Members of the University Community;
  - f. apology: the Respondent offers an apology which is accepted by the Reporter;
  - g. written agreement: the Parties agree to measures for a period of time or as long as one or both of them are Members of the University Community;  
or
  - h. any other process or intervention that incorporates a restorative approach, or one or both Parties' cultural or community values.
89. Where an Alternative Resolution process requires the voluntary participation of the Respondent, the Department of Equity, Diversity, Inclusion and Human Rights will provide the Respondent with:
- a. Written notice that a Disclosure or Report has been brought against them, the details of the allegations, and a copy of this Policy;
  - b. Information about University supports and services, including contact information for an advisor within the Department of Equity, Diversity, Inclusion and Human Rights to whom they may direct questions about the Policy or process;
  - c. In the case of a unionized Respondent, a statement informing them of their right to consult with their union;
  - d. A reminder that this Policy prohibits Reprisal.
90. Alternative Resolution is not appropriate where previous Reports have been made about the Respondent, where the University has received multiple Disclosures about the Respondent, where there are identified safety concerns, or where either party is not willing to voluntarily participate in the Alternative Resolution process.
91. Any Alternative Resolution process that involves face-to-face communication between the Parties must be facilitated by a person with training or experience appropriate to the seriousness and nature of the allegations and the context of

the Parties, including Trauma-Informed practice, mediation or counselling, gender-based violence, and managing communication and power dynamics between Parties.

92. Alternative Resolution processes shall normally be completed within six (6) weeks of the receipt of a Disclosure or Report. A Reporter may choose to submit a Report for investigation if an Alternative Resolution process does not result in desired outcomes.

## **Q. Report and Investigation**

### *Report by a Member of the University Community*

93. A Member of the University Community who believes they have experienced Sexual Violence may:
- a. submit a Report directly with a Safe Disclosure Officer; or
  - b. give their consent to a Surrogate to submit a Report on their behalf, anonymously or non-anonymously.
94. Reports will be submitted or captured in writing and include a detailed description of the behaviour that forms the basis of the Report, including where and when incident(s) occurred, and an indication of the redress sought by the Reporter.
95. The person who gave their consent to submit a Report through a Surrogate has the right to decline to participate in any investigation that may occur as a result of the Report.
96. An anonymous Report through a Surrogate will be processed in accordance with the principles of procedural fairness, which may impact the potential outcomes available following an Investigation.
97. Information provided anonymously may inform a process aimed at addressing systemic or other institutional culture concerns related to Sexual Violence.

### *Initial Assessment of a Report by a Member of the University Community*

98. Where the Department of Equity, Diversity, Inclusion & Human Rights receives a Report with a request for investigation, the Department will undertake an initial assessment of the Report to determine whether:
- a. it is within the Scope and Application of this Policy; and
  - b. the alleged facts, if proven, could amount to Sexual Violence;
  - c. either of the Reporter or Respondent is identifiable; and

- d. the matter is not more appropriately addressed through the Harassment and Discrimination Policy or another University policy;

in which case, the Report will be considered to be accepted for Investigation.

99. The following factors will not be considered in assessing whether a Report is accepted for Investigation:
- a. it is or will be inconvenient;
  - b. it will negatively impact the reputation of the University;
  - c. it will be costly to investigate and/or to remedy;
  - d. the Respondent is unavailable (for whatever reason);
  - e. the Reporter has left the University.
100. If the Report is not accepted for Investigation, the Department of Equity, Diversity, Inclusion and Human Rights will notify the Reporter in writing, identifying why the Report was not accepted for Investigation, and the process by which the Reporter may request a reconsideration of the determination. If new information is subsequently provided, this decision may be re-evaluated.
101. A decision not to accept a Report for investigation does not preclude the availability of Alternative Resolution processes, or accommodations or other supports and services for affected Members of the University Community.
102. Information provided in a Report that is not accepted for investigation may inform a process aimed at addressing systemic or institutional culture concerns related to Sexual Violence.

#### *University-Initiated Reports*

103. The University respects a Reporter's choice not to proceed with a Report under this Policy. In limited circumstances, the University may determine it necessary to initiate a University Report where:
- a. One or more Members of the University Community, by name or anonymously, have provided information about an occurrence of Sexual Violence by a Member of the University Community;
  - b. There has been more than one Disclosure about more than one alleged occurrence of Sexual Violence by the same Respondent;
  - c. The allegations name a Respondent who is no longer a Member of the University Community, and failure to address those allegations could negatively impact the culture, working or learning environment, or reputation of the University;

- d. An Investigation is required by law, such as under the *Occupational Health and Safety Act Workplace Harassment Regulations*; or
- e. The allegations raise systemic or other institutional culture concerns related to Sexual Violence;

and the Vice-President, People and Culture or their delegate determines that:

- f. Proceeding with a University-Initiated Report is in the interests of the health and safety of Members of the University Community and consistent with the University's obligations and responsibilities; and
- g. In circumstances where the Reporter has chosen or is likely to choose not to be involved, it is reasonably likely that sufficient evidence can be obtained to determine if the Respondent has committed an act of Sexual Violence in a way that respects procedural fairness.

- 104. The Reporter will not be required to participate in a University-Initiated Report. Communication with the Reporter about the University-Initiated Report will occur only if the Reporter has indicated that they wish to be kept informed.
- 105. A University-Initiated Report will be processed and responded to by the University in the same manner as a Report, except that the Reporter shall be the relevant University Administrator.

### *Investigation*

- 106. An Investigation will be initiated on acceptance of a Report for investigation by the Department of Equity, Diversity, Inclusion & Human Rights under section 98, or on submission of a University-Initiated Report under 103.
- 107. The Department of Equity, Diversity, Inclusion & Human Rights shall select an Investigator from a pre-established list of investigators external to the University. The list shall consist of professionals with previous experience in conducting Sexual Violence or related investigations at universities or institutions of similar size or complexity, with training in Trauma-Informed practice, and who are culturally competent. To the extent possible, the list shall have broad representation across Protected Grounds.
- 108. The selection shall be made considering the Investigator's capacity to complete an investigation in a timely manner, their particular expertise relative to the circumstances of the matter at hand, and whether or not there is an actual or perceived Conflict of Interest concerning Process Participants. If necessary, the selection of an external Investigator may be made outside the list where required to meet the criteria set out above.

109. The Department of Equity, Diversity, Inclusion and Human Rights will provide written notice to the Parties that the allegations in the Report will be investigated by the Investigator. Notice to the Respondent will include:
  - a. That a Report has been brought against them and will be investigated under this Policy, the details of the Report, and a copy of this Policy;
  - b. Information about University supports and services, including contact information for an advisor within the Department of Equity, Diversity, Inclusion and Human Rights, or other office on campus, to whom they may direct questions about the Policy or process;
  - c. In the case of a unionized Respondent, a statement informing them of their right to consult with their union;
  - d. A reminder that this Policy prohibits Reprisal.
110. If a Party is of the view that the Investigator presents an actual or perceived Conflict of Interest, they may request that an alternative Investigator be selected. The request shall be made within three (3) days of having been notified of the initial selection. After considering any request, the decision of the Department of Equity, Diversity, Inclusion and Human Rights regarding the selection of Investigator shall be final.
111. The Department of Equity, Diversity, Inclusion and Human Rights will provide the Investigator with all relevant materials in its possession, including any materials submitted by Process Participants.
112. The Investigator will conduct an investigation in a manner consistent with Trauma-Informed practice and the principles of procedural fairness, including each Party's right to know, understand, and respond to the Report.
113. The Investigator will provide each Party with a reasonable opportunity to schedule an interview. Parties may provide names of potential witnesses, and may submit any written response or additional information they wish to have considered by the Investigator. The Investigator may interview other individuals the Investigator considers likely to possess information relevant to the Report.
114. If any Party declines to participate in the investigation, the Investigator may determine the findings on the basis of the information otherwise available.
115. The Investigator must not consider any of the following when assessing the credibility of the Reporter, or when assessing whether the Reporter consented to sexual activity:
  - a. Any other sexual activity on the part of the Reporter, including any prior sexual activity with the Respondent;

- b. The Reporter's failure to physically, verbally, or in writing, object to the sexual activity;
- c. Any perceived delay in making a Disclosure or submitting a Report.

The investigator may ask questions on these topics only if they consider this information to be material to another aspect of the investigation.

116. The Investigator shall produce an Investigation Outcome containing:
- a. a statement of the process followed;
  - b. findings of fact, assessed on the balance of probabilities standard (more likely than not);
  - c. a determination of whether, on a balance of probabilities, there has been a violation of this Policy and reasons for the determination;
  - d. where there is a determination of a violation, recommended remedial and/or corrective action(s).
117. The timeline for completion of an Investigation Outcome is dependent on the complexity of the matter, the volume of evidence and number of witnesses and other circumstantial matters as they may arise. The normal timeline for completion of an investigation is sixty (60) days from the appointment of the Investigator. This timeline may be extended by the Department of Equity, Diversity, Inclusion and Human Rights upon written request of the Investigator and with notice to the Parties.
118. Upon completion, the Investigation Outcome shall be provided to the Appropriate Vice-President.

*Actions following an Investigation Outcome*

119. Within five (5) days of receipt of the Investigation Outcome, the Appropriate Vice-President shall notify the Parties of the result, and shall provide a copy of the Investigation Outcome, redacted where required by law.
120. The Parties shall have ten (10) days to provide written comments on the Investigation Outcome to the Appropriate Vice-President, including but not limited to any comment on the reasonableness of the Investigator's findings, the fairness of the process followed by the Investigator, or comment on appropriate remedial and/or corrective outcomes.
121. The Appropriate Vice-President shall consider the Investigation Outcome and any comments received from the Parties.
122. Where the Investigator has determined that there has been a violation of this Policy, the Appropriate Vice-President may initiate remedial and/or corrective actions as they deem appropriate, in consideration of the recommendations in

the Investigation Outcome and any comments received from the Parties. Remedial and/or corrective actions shall be initiated within ten (10) days of the expiry of the timeline for providing comments on the Investigation Outcome under section 120.

123. The Appropriate Vice-President shall notify the Parties of all remedial and/or corrective actions initiated.
124. Any remedial and/or corrective action shall be subject to University policies and/or collective agreements, as may be applicable.
125. Remedial and/or corrective actions shall recognize the harm to the Reporter and others, taking into account the seriousness of the violation, and any mitigating or aggravating factors. The goal of remedial and/or corrective action shall be to:
  - a. enhance a culture of trust, safety and inclusion at the University and among Members of the University Community;
  - b. enhance accountability and transparency at the University;
  - c. remove any ongoing violations of this policy;
  - d. prevent future violations of this policy by the Respondent and others;but shall not take into account:
  - e. the extent to which the remedial action is inconvenient, will negatively impact the reputation of the University, or will be costly to implement;
  - f. that the Respondent has left the University, except that any disciplinary action of the Respondent since-departed would be foreclosed;
  - g. the potential for appeal under this policy or any alternatively available appeal or review.
126. Remedial and/or corrective actions may include, but are not limited to:
  - a. those actions contemplated as Immediate Measures;
  - b. education and training;
  - c. workplace or academic accommodation;
  - d. resident relocation or suspension;
  - e. probation;
  - f. discipline, up to and including termination;
  - g. suspension or expulsion.

*Appeal from Investigative Outcome*

127. Subject to section 134, a Party may appeal the outcome and/or remedial/corrective action on one or more of the following grounds:
  - a. there was a fundamental procedural error seriously prejudicial to the appellant;
  - b. there is new relevant evidence that could not have been reasonably presented earlier.
128. An Appeal is not a rehearing of the evidence.
129. An Appeal shall be filed with the Department of Equity, Diversity, Inclusion and Human Rights within fifteen (15) days of the appellant's receipt of the Investigation Outcome or decision on remedial and/or corrective action from the appropriate Vice-President, whichever is later.
130. An Appeal shall be heard by an appeal committee consisting of three members. Two members shall be selected from a pre-established roster of Members of the University Community having appropriate training and qualifications with respect to human rights principles, procedural fairness, and Trauma-Informed practices. One member shall be selected from the roster by the Reporter, and one member selected from the roster by the Respondent. The third member shall be selected by the University who shall be an external lawyer, other than the University's regular counsel and subject to the Conflict of Interest Policy, and who has expertise in human rights and administrative law.
131. The Appeal will be heard in writing except where the appeal committee decides that an oral hearing is warranted to ensure procedural fairness, such as for the most severe penalties such as expulsion, or dismissal.
132. The other Party to the Report will be given notice of any Appeal and will be entitled to make submissions, should they wish to participate.
133. The decision of the appeal committee shall be a decision of the majority, and shall be final and binding. Written reasons for the decision will be communicated to the Parties.
134. Parties with access to grievance rights under a collective agreement may not file an Appeal under this Policy. The grievance and arbitration provisions of the applicable collective agreement will instead serve as the appeal process for unionized employees.

**R. Complex or Systemic Issues relating to Sexual Violence**

135. Sexual Violence involving a large number of individuals, or issues of entrenched or institutionalized practices, systems, or structures related to Sexual Violence, should be reported to a Safe Disclosure Officer.
136. In the absence of a Report from a Member of the University Community, a Safe Disclosure Officer may recommend a University-initiated Report and investigation to address complex, systemic, or other institutional cultural issues related to Sexual Violence.
137. Alternatively, in consultation with appropriate University Administrators, a Safe Disclosure Officer may recommend that the University initiate a systemic review or assessment of a work or learning environment, including to understand and respond to patterns or trends identified by the Department of Equity, Diversity, Inclusion, and Human Rights.
138. The Department of Equity, Diversity, Inclusion, and Human Rights will communicate a summary with the affected individuals, community, faculty, or unit, as appropriate, of any process or actions taken, and outcomes resulting from, the University's steps to address complex, systemic, or other institutional cultural issues related to Sexual Violence, subject to the confidentiality requirements of this Policy.

**S. Annual Reporting and Collection and Use of Data for Statistical Purposes**

139. The Department of Equity, Diversity, Inclusion and Human Rights will provide a written report, annually, to the Vice-President, People and Culture, regarding:
  - a. the number of Disclosures and Reports in the preceding academic year;
  - b. the type of Disclosures and Reports in the preceding academic year (type of Sexual Violence, Report or University-Initiated);
  - c. subject to section 140, Reports by party status (faculty, staff, student, visitor);
  - d. subject to section 140, Reports by kind of outcomes (e.g., dismissal of Reports, Alternative Resolution, Investigation);
  - e. subject to Section 140, Investigation outcomes (e.g., finding or no finding of Sexual Violence);
  - f. subject to section 140, outcomes applied as a result of a finding that an act of Sexual Violence occurred;

- g. any systemic issues of Sexual Violence identified following Investigation or other process under Section P, along with an action plan for addressing such systemic issues;
  - h. the average, median and maximum number of days required to complete procedures under this Policy (e.g., Alternative Resolution, Investigation, implementation of remedial and/or corrective actions), and to resolve Disclosures, and Reports;
  - i. subject to section 140, observed trends, such as with respect to the locations of incidents of Sexual Violence or demographics, relevant to identifying systemic points of weakness or risk;
  - j. educational and other activities related to this Policy; and
  - k. other matters as may be directed by the Vice-President, People and Culture.
140. Statistics for the report, or for other purposes, may be derived from confidential records, but will be reported in a non-identifiable format so as to maintain the anonymity of the persons involved, and in a manner compliant with the University's obligations pursuant to the law, including but not limited to, the *Freedom of Information and Protection of Privacy Act* and *Health Information Act*.
141. The Vice-President, People and Culture, will release the annual report to the University community, and will report annually to the Board of Governors on the implementation of this Policy.

## **T. Administrative Provisions**

142. This Policy shall come into force on a date to be determined by the Board of Governors. On this date the former Sexual Violence Policy shall be retired except that matters having commenced under the processes of the former Sexual Violence Policy shall continue under that policy until resolved or concluded.
143. This Policy shall be reviewed by the Board of Governors one year following its effective date, and no later than every three years thereafter. The review shall occur in consultation with representatives of the University's elected student governing bodies, and consider input from a diverse selection of students, including those most vulnerable. The review shall also involve consultation with other Members of the University Community, such as faculty, staff, unions, and the Joint Occupational Health and Safety Committee.
144. Related University policies include:
- a. Harassment and Discrimination Policy
  - b. Academic Accommodations for Students with Disabilities

- c. Violence Prevention and Response; Ensuring a Safe Campus Community
  - d. Health, Safety, and Environment Policy
  - e. Student Code of Conduct
  - f. Conflict of Interest
  - g. Non-Disclosure Agreements in Harassment and Discrimination
  - h. Access to Information and Protection of Personal Information and Privacy
145. Related statutes include:
- a. Employment Standards Act
  - b. Human Rights Act
  - c. Freedom of Information and Protection of Privacy Act
  - d. Health Information Act
  - e. Occupational Health and Safety Act including the Occupational Health and Safety Act Workplace Harassment Regulations
  - f. Non-disclosure Agreements Act

## Appendix A

Supports and services available at the university to Reporters and students who are affected by Sexual Violence, and to Respondents under this policy, include:

[list to be maintained and updated on *Department of Equity, Diversity Inclusion and Human Rights* website]

- Department of Equity, Diversity Inclusion and Human Rights
- Mawi'omi Indigenous Student Centre
- Counselling Services
- Academic Support Services
- Office of Student Culture and Community Standards
- Accessibility Services
- International Student Office
- PEI Human Rights Commission
- Emergency Response (call 911)
- UPEI Security Services (call 902-566-0384)