



**FOR APPROVAL**

**PUBLIC**

**OPEN SESSION**

**TO:** Governing Council

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**PRESENTER:** See above.  
**CONTACT INFO:**

**DATE:** December 5 for December 15, 2016

**AGENDA ITEM:** 5 (a.)

**ITEM IDENTIFICATION:**

*Policy on Sexual Violence and Sexual Harassment*

**JURISDICTIONAL INFORMATION:**

Under Section 5.4 of its Terms of Reference, the following matters fall under the purview of the University Affairs Board:

*“University-wide matters affecting members of the University community that are not governed by academic policies or employment policies are the responsibility of the Board. These include such matters as non-academic discipline, sexual harassment, freedom of speech, alcohol use on campus, and smoking policies.”*

**GOVERNANCE PATH:**

1. Business Board [for information] (November 17, 2016)
2. Academic Board [for information] (November 24, 2016)
3. University Affairs Board [for recommendation] (November 28, 2016)
4. Executive Committee [for endorsement and forwarding] (December 5, 2016)
5. **Governing Council [for approval] (December 15, 2016)**

**PREVIOUS ACTION TAKEN:**

Together with an update on the University’s Sexual Violence Action Plan, a draft version of the proposed policy, then known as the *Policy on Sexual Violence*, was submitted for information and discussion to the cycle 1 meetings of the following governance bodies: UTM Campus Affairs Committee (September 15), UTSC Campus Affairs Committee (September 20), Business Board (September 22), UTSC Campus Council (October 5), University Affairs Board (October

5), Academic Board (October 6), UTM Campus Council (October 6), and Executive Committee (October 19).

The Governing Council Secretariat also emailed a draft of the proposed *Policy* to each member of Governing Council shortly after its public release for consultation on September 7, 2016. A special session for governors to discuss the University's Sexual Violence Action Plan and proposed *Policy* with Vice-President and Provost Cheryl Regehr and Vice-President, Human Resources & Equity, Kelly Hannah-Moffat was held on October 5, 2016.

## **HIGHLIGHTS:**

### *Background*

#### *Bill 132*

In March 2015, the Government of Ontario released "It's Never Okay: An Action Plan to Stop Sexual Violence and Harassment." The Action Plan outlined steps to help change attitudes, provide more supports for victims, and make campuses safer and more responsive to complaints of sexual violence and harassment. These objectives were enshrined in legislation and subsequent regulations under Bill 132, the *Sexual Violence and Harassment Action Plan Act, 2016*.

Schedule 3 of the *Act* modifies the *Ministry of Training, Colleges and Universities Act* and requires that all publicly-funded universities and colleges in Ontario have a policy that addresses sexual violence involving students enrolled at the institution, and that sets out the process for how the institution will respond to and address incidents and complaints of sexual violence. The legislation comes into effect on January 1, 2017.

The regulations passed under Bill 132 also mandate training for members of the University community on its sexual violence policy and create reporting requirements to government on sexual violence incidents involving students. The legislation's definition of sexual violence is broad and includes acts from sexual harassment or discrimination to sexual assault.

#### *University of Toronto Action Plan*

The University's work on sexual violence on campus precedes the provincial legislation. Created in November 2014, the Presidential and Provostial Committee on Preventing and Responding to Sexual Violence through its three working groups conducted research and consultations around campus over a span of 18 months, culminating in a report released in February 2016. Shortly thereafter, the President and the Provost accepted all of the Committee's recommendations and have been moving forward on implementing them.

The University's response to both legislative requirements and the recommendations of the Committee can be found in its [Action Plan on Preventing and Responding to Sexual Violence](#), which rests on four pillars: a new sexual violence policy, a regular climate survey, education and prevention activities, and a new tri-campus centre on sexual violence.

1) *Policy on Sexual Violence and Sexual Harassment*

The development of a new sexual violence policy and the coordination of existing policies and guidelines was the focus of much of the work on the Action Plan during the summer of 2016. An expert panel was created, chaired by former Dean of Law and current Provost of Trinity College Mayo Moran, and included panel members representing faculty, staff, undergraduate and graduate students. The Expert Panel on Sexual Violence Policies was asked to advise Vice-President and Provost Cheryl Regehr and Professor Angela Hildyard, then Vice-President, Human Resources & Equity, on principles and recommendations for a new policy on sexual violence, and to provide general recommendations for revisions to existing University policies addressing sexual violence and sexual harassment.

The Expert Panel conducted a number of consultations across the University of Toronto's three campuses over the summer. The Expert Panel's consultations included in-person consultation days on each of the three campuses, during which students, staff and faculty were invited to provide feedback on the development of a sexual violence policy. Each day consisted of three separate sessions, one each for students, staff and faculty. The Expert Panel also held a number of other meetings, including with Representative Student Committees and individual faculty members, and received over 100 written submissions on its online consultation portal. In August 2016, the Expert Panel delivered its final report, which included 40 recommendations. These informed the draft *Policy*, which was released for broad consultation throughout the University community in September 2016, and is the subject of this item.

2) Climate Survey

An advisory board was formed to guide the creation and implementation of a climate survey, which will gather data about experiences and perceptions of sexual violence on campus. While some of this information is necessary to meet new reporting requirements to government introduced under Bill 132, additional areas of interest can also be explored. The Sexual Violence Climate Survey Advisory Board, chaired by Professor Sandy Welsh, is following the survey development work of the Ministry of Advanced Education and Skills Development. The first university sector climate survey is expected to take place in 2018.

3) Education and Prevention

Another expert panel was formed to review the University's education and prevention training initiatives relating to sexual violence, sexual harassment, consent, relevant policies and guidelines, and other related topics. While a considerable amount of training already takes place across campus, the focus of the Expert Panel on Sexual Violence Education and Prevention, chaired by Professor Gretchen Kerr, is on coordinating and aligning these efforts and on ensuring that they are informed by the latest scholarship, evidence and best practices. This expert panel began its work in August 2016 and will continue consulting with students, staff and faculty throughout the 2016-2017 academic year.

#### 4) Sexual Violence Prevention and Support Centre

At the recommendation of the Presidential and Provostial Committee, a tri-campus centre to support those who have been affected by sexual violence will be in place by January 1, 2017. In addition to serving as a first point of contact for those who require support or accommodations as a result of sexual violence, the Centre will also coordinate education and prevention training on campus. The University has created and filled a new position – the Executive Director, Personal Safety, High Risk and Sexual Violence Prevention and Support – to provide over-arching guidance to the Centre, and is currently conducting a search to hire a Centre director.

#### Highlights

The University submits the attached draft *Policy* for approval, after an extensive process of consultation. All members of the University of Toronto community should have the ability to study, work and live in a campus environment free from sexual violence. The *Policy* confirms the University's belief that sexual violence is a serious issue that undermines the health, well-being and security of individuals, communities and society; addressing the causes and consequences of sexual violence requires the deliberate and collective efforts of governments, institutions and citizens. Through this *Policy* and its implementation, the University is committed to responding to and addressing incidents and complaints of sexual violence involving its students, staff and faculty, and to ensuring that those members of the community who are affected by sexual violence receive support.

Some key elements of the proposed *Policy on Sexual Violence and Sexual Harassment* are as follows:

- Meets the requirements outlined in Bill 132 and its Regulations.
- Contains definitions that are drawn from established sources.
  - While the definitions of some terms, such as that of 'sexual violence,' were provided in the legislation, others are drawn from the *Ontario Human Rights Code* and the *Criminal Code of Canada*.
- Applies to students, staff and faculty, creating uniform expectations for all members of the University community.
- Scope extends to events that occur on campus, off campus or online, where both parties are members of the University community.
- Defines the actions of disclosure and reporting, and identifies the parameters for each.
- Adopts a survivor-centric approach, respecting the complainant's autonomy in decision-making as to whether to report, to whom to disclose, whether to participate in the investigatory process, and whether to pursue recourse to the criminal or civil justice systems.
  - Complainants can choose to access supports without requesting a formal report or investigation.
- Procedural fairness for the respondent.
- Does not require mediation, although both parties may consent to it.

- Provides support for those who have experienced sexual violence, as well as for those who have received a disclosure and those who have had an allegation of sexual violence made against them.
- Outlines investigation and adjudication processes to address complaints in which both the complainant and the respondent are members of the University community.
  - In cases where the respondent is outside of the University's jurisdiction, the complainant would have access to support and accommodations through the University.
- Utilizes existing mechanisms for remedies based on the status of the respondent.
- Outlines the role of the tri-campus University of Toronto Sexual Violence Prevention and Support Centre as a centralized service providing intake of disclosures and reports to minimize the need for a complainant to repeat their accounts.

### Consultation

As described above, the University has been consulting with its community on the issue of sexual violence for more than two years, including through the Advisory Committee and Expert Panels. Specific to this proposed *Policy*, a draft was released for consultation on September 7. The draft *Policy* was published on the University's consultation website and a web form was created through which community members could provide their feedback. Numerous strategies were employed to encourage participation in the consultation process:

- An email was sent to all students, staff, faculty and librarians at all three campuses informing them of the release, directing them to the consultation website and inviting their feedback. In total, over 120,000 emails were sent.
- Several University websites, including the Provost's Office website, the Sexual Violence Action Plan webpage, the Expert Panel on Sexual Violence Policies webpage, the Human Resources website, the Safety @ UofT website, and several Student Life webpages, were updated to direct readers to the consultation page to provide feedback.
- Just-in-time slides advertising the consultation process were posted to video screens in high-traffic areas at all three campuses.
- Senior academic leadership, including principals, deans, academic directors and department chairs, were informed of the consultation release and encouraged to share the news with their colleagues and students.
- An item about the beginning of consultation was included in the weekly Provost's Digest.
- The University of Toronto Faculty Association (UTFA) was provided with a draft of the *Policy* by email and invited to provide feedback.
- Members of Governing Council received a copy of the draft *Policy* by email from the Secretariat and were invited to provide feedback. A special session for governors was also held on October 5.
- The consultation process was advertised on the University's social media properties. Regular reminders were also posted throughout the consultation period.

In addition to these tools to solicit online feedback, a number of in-person meetings were also held to discuss the draft *Policy* further:

### *Students*

- As is their usual practice, the Office of the Vice-Provost, Students continued to meet regularly with the Representative Student Committees and gathered feedback on the *Policy* during these discussions.
- Representative Student Committees on all three campuses held consultation sessions with their constituencies to gather feedback on the *Policy*. This feedback was then relayed to the Administration.
- The Administration met individually with interested campus groups, such as Students for Barrier-free Access, to collect their feedback on the *Policy*.
- The Vice-President and Provost discussed the *Policy* at a meeting of the Provostial Undergraduate Student Advisory Group, with elected representatives of divisional student societies.
- Drop-in sessions were held on all three campuses for students, staff and faculty to provide feedback.
- Focus groups were also held on all three campuses for students to provide feedback.

### *Faculty*

- The Administration met regularly with the University of Toronto Faculty Association to discuss the contents of the proposed *Policy*. UTFA submitted detailed feedback for consideration.
- The Administration discussed the *Policy* at regular meetings of Principals, Deans, Academic Directors, and Chairs, and other senior academic administrators.

### *Staff*

- The Administration discussed the *Policy* at regular meetings of staff advisory groups for Confidential staff, PM1-9 staff, and research associates.
- The *Policy* was discussed at a meeting of the CAO committee, as well as at meetings of the Joint Health and Safety Committee.
- The *Policy* was discussed at the Council on Student Experience, a meeting of student-facing staff.
- The *Policy* was discussed with the United Steel Workers (USW) executive, as well as with the relevant Canadian Union of Public Employees (CUPE) locals.

Several themes emerged from the consultation feedback, in addition to many useful and specific suggestions on wording. Changes were made to the draft *Policy* in response to the thoughtful feedback received. Some of the themes identified in the consultation process that resulted in changes to the draft *Policy* included:

- Inclusion of ‘Sexual Harassment’ in the title of the *Policy*
- More clarity about the difference between disclosure and reporting
- Scope of the *Policy*, including a clearer definition of who is covered
- Due process and rights of respondents

- Emphasis regarding provision of supports to complainants in the disclosure and reporting phases, and regardless of whether a report is made
- Information about investigation process, including timeliness, the qualifications of the investigators, and the addition of a review process if a decision was made not to investigate
- Clearer language about confidentiality of data
- Definition of sexual and gender-based harassment

Many comments and questions will be addressed in the development of a Companion Guide and/or operational guidelines to be developed to support the *Policy* and its implementation.

### Implementation

In order to implement the proposed *Policy* after approval, the University is developing a Companion Guide to assist complainants, respondents, those receiving disclosures, and others involved in the process of reporting and investigation. The University will also discuss jurisdictional issues related to the proposed *Policy* and its application with the federated universities, the Toronto School of Theology, and the affiliated hospitals. Other policies and guidelines are being reviewed for potential amendments to clarify the intersection with this proposed *Policy*, such as the *Policy with Respect to Workplace Violence*, *Policy with Respect to Workplace Harassment*, and *Code of Student Conduct*.

### **FINANCIAL IMPLICATIONS:**

There are no direct implications for the University's operating budget at this time. Specific implications will become known as the *Policy* is implemented across the University.

### **RECOMMENDATION:**

Be It Resolved

THAT the proposed *Policy on Sexual Violence and Sexual Harassment*, dated November 1, 2016, be approved, effective January 1, 2017.

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### **DOCUMENTATION PROVIDED:**

- Proposed *Policy on Sexual Violence and Sexual Harassment* (November 1, 2016)

Policy on  
Sexual Violence and Sexual Harassment

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University of Toronto  
Proposed Policy

November 1, 2016



# Policy on Sexual Violence and Sexual Harassment

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## Contents

DEFINITIONS .....	1
I. STATEMENT OF COMMITMENT .....	3
II. APPLICATION AND SCOPE .....	3
III. EDUCATION, SUPPORT, AND RESOURCES .....	4
IV. PRINCIPLES RESPECTING PROCESS .....	4
V. CONFIDENTIALITY AND PRIVACY .....	5
VI. ACCESSING THE POLICY: DISCLOSURE AND REPORTING .....	5
VII. DISCLOSURE .....	6
VIII. REPORTING .....	7
A. REPORTING PROCESS .....	7
B. UNIVERSITY RESPONSE .....	8
C. ASSESSMENT AND APPOINTMENT OF AN INVESTIGATOR .....	8
a) ASSESSMENT .....	8
b) APPOINTMENT OF AN INVESTIGATOR .....	9
D. INVESTIGATION .....	9
E. DECISION-MAKING AND APPEAL PROCESS .....	10
F. UNIVERSITY'S OBLIGATION WHEN A COMPLAINANT REQUESTS NO INVESTIGATION OR CHOOSES NOT TO PARTICIPATE .....	11
G. UNIVERSITY'S OBLIGATION WHEN SOMEONE OTHER THAN THE COMPLAINANT MAKES A REPORT OR A REPORT IS MADE ANONYMOUSLY .....	12
IX. REVIEW .....	12
APPENDIX: REFERENCES TO OTHER POLICIES AND LEGISLATION .....	13

## DEFINITIONS

The following definitions are intended to assist in the interpretation of this Policy, as well as other related University policies:

**Member(s) of the University Community:** Includes students, faculty, librarians, post-doctoral fellows, and all employees of the University of Toronto. For clarity, faculty includes clinical, adjunct, status-only, retired, and visiting faculty. When used in reference to the University's training obligation with respect to this Policy, the term also includes contractors and members of the Governing Council of the University.

**Complainant:** A Member of the University Community who has Disclosed or Reported an Incident of Sexual Violence experienced by that individual.

**Respondent:** Someone against whom an allegation of Sexual Violence has been made.

**Disclosure:** The sharing of information by an individual with a Member of the University Community regarding an Incident of Sexual Violence experienced by that individual.

**Reporting:** The sharing of information by an individual with a designated Member of the University Community regarding an Incident of Sexual Violence experienced by that individual, with the intention of initiating one of the processes set out in this Policy, which could result in disciplinary action being taken against the Member of the University Community alleged to have committed Sexual Violence.

**Incident of Sexual Violence:** Includes any instance of Sexual Violence, including Sexual Harassment and all associated definitions provided herein.

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

**Sexual Harassment:** Includes but is not limited to engaging in a course of vexatious comments or conduct that is known or ought to be known to be unwelcome. For the purpose of this Policy, Sexual Harassment includes workplace sexual harassment. Sexual Harassment includes any sexual solicitation or advance made by a person in a position to confer, grant or deny a benefit or advancement to the person where the person making the solicitation or advance knows or ought reasonably to know that it is unwelcome. Sexual harassment also includes a reprisal or a threat of reprisal for the rejection of a sexual solicitation or advance, where the reprisal is made or threatened by a person in a position to confer, grant or deny a benefit or advancement to the person.

**Sexual Assault:** Any form of sexual contact without a person's consent, including the threat of sexual contact without consent. A Sexual Assault can range from unwanted sexual touching to forced sexual intercourse; and a Sexual Assault can involve situations where sexual activity is obtained by someone abusing a position of trust, power or authority.

**Cyber Sexual Violence:** Includes but is not limited to knowingly publishing, distributing, transmitting, selling, making available or advertising an intimate image of a person, knowing that the person depicted in the image did not give their consent to that conduct, or being reckless as to whether or not that person gave their consent to that conduct. An intimate image includes but is not limited to a visual recording of a person made by any means, including a photographic, digital or video recording, in which the person is nude and/or engaged in sexual activity. For the purpose of this Policy, Sexual Violence includes Cyber Sexual Violence.

**Cyber Sexual Harassment:** Includes but is not limited to Sexual Harassment conducted in whole or in part through electronic means, such as email, web postings, text messaging, and other forms of electronic behaviour. For the purpose of this Policy, Sexual Harassment includes Cyber Sexual Harassment.

**Gender-based Harassment:** Includes but is not limited to engaging in a course of vexatious comment or conduct related to a person's sex, gender, sexual orientation, gender identity or gender expression that is known or ought reasonably to be known to be unwelcome.

**Consent:** The voluntary agreement of an individual to engage in a sexual act. Consent is positive, active and ongoing, and can be revoked at any time. Consenting to one kind of sexual act does not mean that consent is given for another sexual act or kind of activity. Consent is NOT obtained where a person is incapable of consenting – for example due to intoxication, or where a person is induced to engage in the activity by someone abusing a position of trust, power or authority.

As per the *Criminal Code of Canada*, it is not a defence to an allegation of Sexual Violence that the Respondent believed that the Complainant consented to the activity that forms the subject matter of the complaint, where (a) the Respondent's belief arose from the Respondent's (i) self-induced intoxication; or (ii) recklessness or wilful blindness; or (b) the Respondent did not take reasonable steps, in the circumstances known to the accused at the time, to ascertain that the Complainant was consenting.

## I. STATEMENT OF COMMITMENT

1. All members of the University of Toronto (“the University”) community should have the ability to study, work, and live in a campus environment free from Sexual Violence, including Sexual Assault and Sexual Harassment.
2. Sexual Violence is a serious issue that undermines the health, well-being, and security of individuals, communities, and society. Addressing the causes and consequences of Sexual Violence requires the deliberate and collective efforts of governments, institutions, and citizens.
3. The University is committed to making available programs and resources to educate its community on the prevention of and response to Sexual Violence.
4. The University is committed to responding to and addressing incidents and complaints of Sexual Violence involving its students, staff and faculty, and to ensuring that those members of the community who are affected by Sexual Violence receive support.
5. The University recognizes that Sexual Violence can occur between individuals regardless of sex, sexual orientation, gender, gender identity or expression, or relationship status.
6. The University recognizes the intersection of Sexual Violence with discrimination and harassment, including but not limited to the grounds set out in the Ontario *Human Rights Code*. The University recognizes that individuals from historically marginalized communities may be disproportionately affected by Sexual Harassment and Sexual Violence.
7. Sexual Violence can be committed against any person and is an issue that requires an inclusive response. The University recognizes that Sexual Violence is overwhelmingly committed against women, and in particular women who experience the intersection of multiple identities such as, but not limited to, indigenous women, women with disabilities, and racialized women. Additionally, the University recognizes that those whose gender identity or gender expression does not conform to historical gender norms are also at increased risk of Sexual Violence.
8. The University recognizes that individuals who have experienced Sexual Violence experience a range of effects that can profoundly affect their lives.

## II. APPLICATION AND SCOPE

9. This Policy applies to all Members of the University Community. All Members of the University Community will be offered appropriate support with respect to issues of Sexual Violence, regardless of their role in the University or the role of the person against whom an allegation is made.
10. This Policy relies on a centralized system of Reporting, investigation and decision-making for complaints of Sexual Violence in order to avoid actual or perceived conflicts of interest or reasonable apprehension of bias, to preserve privacy, to minimize risk of reprisal, and to ensure coordination and consistency across all academic divisions, campuses, and centralized services.
11. The Reporting procedure and the processes it initiates apply to all Incidents of Sexual Violence in which both the Complainant and the Respondent are Members of the University Community, regardless of whether the event occurred on campus, off campus, or using social media or other electronic media. Support will be made available under this Policy to Complainants regardless of whether the Respondent is a Member of the University Community.

### III. EDUCATION, SUPPORT, AND RESOURCES

12. The University provides support to Members of the University Community who have experienced Sexual Violence and to those who receive a Disclosure or Report of an Incident of Sexual Violence. See paragraphs 38 and 55.
13. The University has established the University of Toronto **Sexual Violence Prevention and Support Centre** [“the Centre”] [link to be provided] with a tri-campus presence. The Centre has a mandate to conduct intake, accept Disclosure and Reporting of Sexual Violence, and provide support to individual Members of the University Community who have experienced Sexual Violence. The Centre will also provide education and training to Members of the University Community with respect to how to respond to Disclosures of Sexual Violence and how to support Complainants.
14. The University provides Sexual Violence education and prevention education for all Members of the University Community, including training on this Policy and awareness programs about Sexual Violence and personal safety.
15. The University provides education and training on this Policy to Members of the University Community who are likely to receive Disclosures or Reports to support those who Disclose with dignity and compassion and to inform them of their options in a safe and supportive manner.
16. The University provides support to Members of the University Community who have had an allegation of Sexual Violence made against them.

### IV. PRINCIPLES RESPECTING PROCESS

17. A person who has made a Disclosure and/or a Report of Sexual Violence has autonomy in decision-making, and in particular with respect to whom to Disclose, whether to Report, whether to pursue recourse to the criminal or civil justice systems, and whether to access support and accommodations as described in paragraphs 38 and 55.
18. The University is committed to the provision of a fair process for all parties and one that respects due process and procedural fairness.
19. The University is committed to reducing barriers to Disclosure and Reporting of incidents of Sexual Violence. In that regard, Complainants will not be asked to repeat their accounts more than is necessary for the implementation of this Policy.
20. The University process will appropriately accommodate the needs of Members of the University Community who are affected by Sexual Violence.
21. The University will not tolerate any retaliation, through any means including through social or other electronic media, against anyone who Discloses or Reports an Incident of Sexual Violence, or who participates in a University process that is addressing allegations of Sexual Violence against a Member of the University Community.
22. Confidential counselling and support will be made available as quickly as practicable to any Member of the University Community who experiences an Incident of Sexual Violence.
23. The University will respond to Disclosures and/or Reports of Sexual Violence fairly and expeditiously.

## V. CONFIDENTIALITY AND PRIVACY

24. The University will treat Disclosures and Reports of an Incident of Sexual Violence in a confidential manner and in accordance with the *Freedom of Information and Protection of Privacy Act*.
25. The University will limit sharing of information to those within the University who need to know the information for the purposes of implementing this Policy, including providing accommodation and interim measures, and the investigation and decision-making processes; and taking corrective action resulting from those processes. For example, where a Complainant wishes to make a Report, fairness to the Respondent will require disclosure of the Complainant's identity and the material allegations being made.
26. Confidentiality cannot be maintained where information needs to be disclosed in order to address a risk to the health and safety of Members of the University Community or where the University is obliged by law to disclose the information. For example, confidentiality cannot be maintained where:
  - a. an individual is at risk of imminent and serious harm to themselves or others;
  - b. Members of the University Community may be at risk of harm; and/or
  - c. reporting or investigation is required by law (for example, but not limited to, an incident involving a minor, or obligations related to occupational health and safety or to human rights legislation).

## VI. ACCESSING THE POLICY: DISCLOSURE AND REPORTING

27. Disclosure and Reporting are separate actions that the Complainant can choose to take. The Centre offers confidential support and services to those who have experienced Sexual Violence.
28. Disclosure is the sharing of information by an individual with a Member of the University Community regarding an Incident of Sexual Violence experienced by that individual.
29. Reporting is the sharing of information by an individual with a designated Member of the University Community regarding an Incident of Sexual Violence experienced by that individual, with the intention of initiating one of the processes set out in this Policy, which could result in a disciplinary action being taken against the Member of the University Community alleged to have committed Sexual Violence. The Centre also manages the initial process for Sexual Violence Reporting. Individuals at the Centre and at Campus Police will be designated to receive Reports under this Policy.
30. A Member of the University Community who witnesses an Incident of Sexual Violence affecting another Member of the University Community should contact the Centre or Campus Police immediately.
31. The University recognizes that an individual who has experienced an Incident of Sexual Violence may require time and reflection before making the decision as to whether or not they wish to make a Disclosure or a Report of the incident. Notwithstanding those considerations, individuals who have experienced an Incident of Sexual Violence are encouraged to make a Disclosure and/or Report as soon as they are able to do so, recognizing that the passage of time may affect the University's ability to address the issues raised by a Disclosure or a Report.

## VII. DISCLOSURE

32. A Disclosure does not result in a Report being made and does not initiate a process to address the Incident of Sexual Violence. The decision to Disclose and the decision to Report are separate decisions.
33. A Disclosure can be made to any Member of the University Community. A Disclosure may relate to a Respondent who is or is not a Member of the University Community.
34. The Centre is the first point of contact for a Member of the University Community affected by an Incident of Sexual Violence to obtain academic, employment, or other accommodations and services. A Member of the University Community who receives a Disclosure should inform the Complainant about this Policy and direct them to the Centre.
35. The University recognizes that such Disclosures are often shared in confidence, that the Complainant may have an expectation of confidentiality, and that in many cases confidentiality is essential in order for Complainants to come forward. The person to whom the Disclosure is made may consult with the Centre for advice but except as directed by the Complainant or as indicated by the provisions in the “Confidentiality and Privacy” section of this Policy, is expected to hold such information in confidence.
36. Members of the University Community outside of the Centre who receive a Disclosure of an Incident of Sexual Violence and who receive the Complainant’s permission to do so can provide to the Centre the name and contact information of the person who made the Disclosure and the date of the Disclosure to them for follow-up support and services.
37. The University respects a Complainant’s right to choose whether and how to pursue action related to an Incident of Sexual Violence, subject to the provisions set out in the “Confidentiality and Privacy” section of this Policy. In particular, when the University is made aware of an Incident of Sexual Violence that poses a risk to the health and safety of Members of the University Community, the University will take steps to maintain their health and safety.
38. The University will make support and services, including counselling, access or referrals to medical services, and academic and other accommodations, available to Members of the University Community who Disclose having been affected by an Incident of Sexual Violence. Support services will also be made available to Members of the University Community who are Respondents. Persons affected by an Incident of Sexual Violence should contact the Centre to obtain such support and services. See also paragraph 55.
39. A Complainant is not required to make a Report about an Incident of Sexual Violence in order to obtain the support and services or accommodations referred to in this Policy.
40. The Centre will make support staff available by phone, email, or through Campus Police on a 24/7 basis. These staff members can provide guidance and support to a Complainant through the process of Disclosure and/or Reporting.
41. The Centre can, on a confidential basis, consult or seek the assistance of other internal personnel or resources of the University to facilitate the safety, follow-up, and support of those involved in a Disclosure of Sexual Violence.

## VIII. REPORTING

### A. REPORTING PROCESS

42. The Centre is responsible for receiving Reports of Incidents of Sexual Violence involving a Member of the University Community in a non-emergency situation.
43. In an emergency, Campus Police or 911 should be the first point of contact. In case of emergency, Sexual Violence can be Reported to Campus Police, which is in turn required to inform the Centre as well as municipal police services. A Report can also be made at a later date following the incident.
44. Reporting can be initiated in person, by phone, or online. A Complainant can also request that the Centre staff file a Report on their behalf. The Centre will maintain a confidential database of Reports received.
45. The University has the jurisdiction to investigate Reports of Sexual Violence made against a Member of the University Community under this Policy.
46. The University does not have the jurisdiction to address allegations made against a person who is not a Member of the University Community. However, in the event of such allegations, the University will provide support to Complainants who are Members of the University Community (see section entitled “Education, Support, and Resources”) and may be able to take measures such as restricting access to campus by the person against whom allegations are made.
47. A Complainant is not precluded from reporting an Incident of Sexual Violence to municipal police services if they have Reported the incident to the University. A Complainant is not precluded from Reporting an Incident of Sexual Violence to the University if they have reported the incident to municipal police services. A Complainant may choose to Report to one or the other, to neither or to both.
48. Once a Complainant has made a Report of an Incident of Sexual Violence to the Centre, the Complainant has initiated the University’s Reporting process. The intention of this Policy is for the Reporting process and each of its steps to be completed as expeditiously as practicable.
49. Both the Complainant and the Respondent have the right to be accompanied by a support person and a union, association, or legal representative at any point during the Reporting process and subsequent processes under this Policy. The support person and union, association, or legal representative, whether or not Members of the University Community, are expected to adhere to the provisions outlined in the “Confidentiality and Privacy” section of this Policy.
50. Confidentiality requirements may change once the Complainant or the University decides to Report under this Policy. In addition to the provisions outlined in the “Confidentiality and Privacy” section of this Policy, all Members of the University Community who are involved in receiving a Report of an Incident of Sexual Violence or who are involved in addressing or investigating it should treat the matter as discreetly and confidentially as practicable, within the context of their roles in implementing this Policy. Information will only be shared to the extent necessary to carry out responsibilities under this Policy or as required to provide a fair process during the investigation and decision-making process.
51. The University will take reasonable steps to protect Complainants and others who participate in a University process that is addressing allegations of Sexual Violence from retaliation, including: advising individuals in writing of their duty to refrain from committing an act of reprisal, and sanctioning individuals for a breach of that duty. The University may also address the potential for



reprisals by providing an accommodation appropriate in the circumstances. Threats of or acts of retaliation will be treated as Incidents of Sexual Violence.

## B. UNIVERSITY RESPONSE

52. When the Centre receives a Report of an Incident of Sexual Violence, it will take steps to engage as soon as practicable in an intake discussion with the Complainant.
53. At the intake discussion, the Centre will provide assistance to the Complainant and will discuss with the Complainant the potential available options. The Centre will outline information about available support and services, including information about interim measures and accommodations that may be available to address the immediate situation.
54. The Centre can, on a confidential basis, consult or seek the assistance of other internal personnel or resources of the University for direction, and can consult or seek the assistance of external parties relevant to the particular incident being Reported.
55. Some of the options that may be made available to the Complainant at the first point of contact following a Report include, but are not limited to:
  - a. referral to contacts for suitable support, services or resources available within and outside the University and in the municipality. Information about external community services is available at [link to be provided];
  - b. where appropriate, communication with the person said to have engaged in Sexual Violence to inform them that the conduct is unwelcome and to note the no-retaliation provisions of this Policy;
  - c. availability of academic accommodation and interim measures, including interim measures provided for under and in accordance with other University policies such as the *Code of Student Conduct*, collective agreements, employment agreements, and human resources policies and guidelines:
    - i. Examples of such measures for students include: separation of the parties, exam or assignment deferral, class and/or schedule changes, emergency bursaries, and/or housing changes;
    - ii. Examples of such measures for employees include: making changes that are not disciplinary but precautionary to avoid contact between parties.
  - d. information about the investigation and decision-making processes that may occur, depending on the role of the Respondent within the University community.
56. The Office of Safety and High Risk will be responsible for coordinating the implementation of accommodations and interim measures as expeditiously as practicable, including referrals as appropriate for the purposes of addressing any non-compliance.

## C. ASSESSMENT AND APPOINTMENT OF AN INVESTIGATOR

### a) ASSESSMENT

57. While the Centre receives Disclosures and initiates Reports, the assessment and investigation processes will be coordinated through the Office of Safety and High Risk.
58. Upon receipt or completion of a written Report, the Centre will send the Report to the Office of Safety and High Risk, which will assess the Report to determine whether the matter falls within the

scope of this Policy. If it is determined that the matter falls within the scope of this Policy, the Office of Safety and High Risk will decide whether to commence an investigation.

59. The Complainant can choose not to request an investigation by the University and has the right not to participate in any investigation that may occur. Where a choice not to participate in an investigation is made, the Complainant will be advised that this may affect the nature of the investigation and the ability to draw conclusions from any investigation report. For further clarity about what will occur in this situation, see the section of this Policy entitled “University’s Obligation when a Complainant Requests No Investigation or Chooses Not to Participate.”
60. If the Office of Safety and High Risk makes the determination that the Report does not appear to fall within the scope of this Policy, or decides not to commence an investigation, the Office of Safety and High Risk will notify the Complainant of this determination. The Office of Safety and High Risk will also determine whether or not to disclose the fact that allegations were made and any other information to the Respondent.
61. If there is a determination that a Report will not be investigated, the Complainant may seek a review of that decision by making a request in writing within 14 days of the decision to the Vice-President and Provost or designate or to the Vice-President, Human Resources & Equity or designate, who will review the matter and advise the Complainant of their decision in writing.

#### b) APPOINTMENT OF AN INVESTIGATOR

62. Once a determination has been made to commence an investigation, a competent person with the appropriate skills, training and/or experience will be appointed to conduct the investigation. The investigator will either be someone who is a Member of the University Community or a person who is external to the University, as appropriate to the circumstances.
63. The Office of Safety and High Risk will send written notice to the Respondent that an investigation of a Report of Sexual Violence under this Policy is being initiated and provide the name of the investigator. This notice will include the particulars of the incident Reported and indicate that the Respondent will have an opportunity to respond to the allegations. The notice will indicate that the Respondent has the right to seek legal advice and to bring a support person, including a union or association representative, or legal counsel, to any meetings during the investigation.

#### D. INVESTIGATION

64. The investigation must be completed in a timely manner, taking into consideration the circumstances of the particular matter including its complexity and the requirements of fairness and due process.
65. The investigator will provide the Respondent with a reasonable opportunity to respond in writing or orally to the allegations. If the response is oral, the investigator should normally confirm the content of the response with the Respondent in writing. If the Respondent does not respond within a reasonable timeframe set by the investigator, or chooses not to participate in the investigation, the investigator may proceed in the absence of their response.
66. The investigator will provide the written particulars of the response from the Respondent, if received, to the Complainant. The Complainant may submit a reply to the response within a reasonable timeframe set by the investigator. If no written reply is received within the time

requested, the investigator can proceed in the absence of a reply. The investigator will provide the written particulars of the reply from the Complainant, if received, to the Respondent.

67. The Complainant and Respondent may choose to submit any additional information to the investigator, including the names of any potential witnesses.
68. The investigator may choose to conduct interviews with either or all parties at any time during the investigative process at the investigator's discretion or at the request of a party. The investigator may also choose to seek witness information.
69. The investigator will act in a timely, fair, impartial, and professional manner. The investigator will treat the information gathered during the investigation in a confidential manner in accordance with the requirements of this Policy.
70. The investigator will remind individuals contacted of the provisions outlined in the "Confidentiality and Privacy" section of this Policy and keep confidential the personal information of the people contacted.
71. Following the completion of the investigation, the investigator will provide to the Office of Safety and High Risk a written confidential report containing a summary of the information gathered during the investigation and the findings of fact made based on the balance of probabilities.
72. The Office of Safety and High Risk will inform the Complainant and the Respondent (and/or their designated representatives) in writing of the results of the investigation, with a reminder as to the provisions outlined in the "Confidentiality and Privacy" section of this Policy.

#### E. DECISION-MAKING AND APPEAL PROCESS

73. In the case of a student Respondent, the investigation report will be reviewed by the Vice-Provost, Students or delegate to determine whether or not the matter will be referred for a hearing under the *Code of Student Conduct* in order to determine whether or not Sexual Violence occurred and, if so, the appropriate penalty or remedies. Appeals against the decision of the Hearing Officer may be made to the Discipline Appeals Board of the Governing Council as provided for in the *Code of Student Conduct*.
74. In the case of a staff member Respondent, the investigation report will be reviewed by the Vice-President, Human Resources & Equity or designate, who will determine whether workplace violence and/or Sexual Violence occurred and, if so, the appropriate sanctions or discipline and corrective action, having regard to appropriate factors such as the nature of the offence and any mitigating or aggravating circumstances. The Respondent will be notified in writing of the decision and any discipline or sanction imposed and will have access to the grievance process under the relevant collective agreement or human resources policy in order to appeal.
75. In the case of a faculty member or librarian Respondent covered by the Memorandum of Agreement with the University of Toronto Faculty Association, the Vice-President and Provost or designate, in consultation with the Vice-President, Human Resources & Equity, will review the investigation report and determine whether workplace and/or Sexual Violence occurred and impose the appropriate discipline, sanction or corrective action, having regard to appropriate factors such as the nature of the offence and any mitigating or aggravating circumstances. The Respondent will be notified in writing of the decision and any discipline or sanction imposed and will have access to the grievance process in Article 7 of the Memorandum of Agreement in order to appeal. If the appropriate sanction is determined to be termination, the Vice-President and Provost will

recommend that termination proceedings be instituted in accordance with the applicable policies and procedures of the University.

76. In the case of a Member of the University Community who holds more than one role – for example, a student who is also an employee – or in the case of multiple Respondents who hold different roles, or in the case of a Respondent who is a Member of the University Community who is not covered in paragraphs 73-75, the University will decide which process(es) will apply in the circumstances of the particular case.
77. A determination that a Member of the University Community has committed an act of Sexual Violence may result in a number of possible outcomes, including the imposition of education and training, corrective action such as relocation or change of duties or supervision, reprimand, suspension, termination or expulsion, commensurate with the nature of the incident complained of and taking into account all other relevant considerations and in accordance with the applicable University policies and procedures, collective agreement, employment contract, or Memorandum of Agreement.
78. If any existing policy's adjudicative process includes "informal resolution" or "mediation," this Policy acknowledges that such pre-adjudicative resolution is acceptable only under two conditions:
  - a. Both parties must consent to such pre-adjudicative resolution, and
  - b. Such pre-adjudicative resolution must not require any face-to-face meeting between the Complainant and the Respondent.
79. If the Respondent's relationship to the University ends and that person is no longer a Member of the University Community, the University may choose to suspend the processes under this Policy. If the Respondent becomes a Member of the University Community again, the University can reinstate the process with notice to the Complainant and Respondent. A leave of absence or any other temporary break from the University does not constitute the end of a relationship with the University for the purposes of this Policy.

#### F. UNIVERSITY'S OBLIGATION WHEN A COMPLAINANT REQUESTS NO INVESTIGATION OR CHOOSES NOT TO PARTICIPATE

80. The Complainant can choose not to request an investigation by the University and has the right not to participate in any investigation that may occur.
81. If a Complainant requests that the University not investigate or act on their Disclosure or Report of an Incident of Sexual Violence, the University will consider that person's request but may decide to proceed, having regard to the health and safety of Members of the University Community and its obligations and responsibilities. In such cases, the Complainant has a right to choose not to participate in such an investigation.
82. The Complainant is entitled to receive other support outlined in this Policy regardless of whether they decide to request an investigation or choose not to participate in one.
83. If requested by the Complainant and subject to any applicable legal obligations and access to information and privacy legislation, the Complainant will be informed of the outcome of such an investigation.

## G. UNIVERSITY'S OBLIGATION WHEN SOMEONE OTHER THAN THE COMPLAINANT MAKES A REPORT OR A REPORT IS MADE ANONYMOUSLY

84. An allegation of Sexual Violence made by someone other than the Complainant can also be Reported to the University. However, the University's ability to address the allegation will depend on a number of factors regarding the information available and the Complainant's decision respecting whether or not to participate in a University process.
85. It may transpire that an allegation of Sexual Violence is Reported to the University anonymously. The University's ability to address the allegation will be dependent on a number of factors, including the information available to substantiate the allegation and to permit a fair process.
86. In such circumstances, the University will make a determination under the section of this Policy entitled "Assessment and Appointment of an Investigator."

## IX. REVIEW

87. The University recognizes that appropriately addressing Sexual Violence on campus is an evolving issue and that the University will revisit this Policy and its associated resources and other related and existing University policies on a regular basis.
88. The University will conduct a review of this Policy every three years that will include consultation with Members of the University Community including students, staff and faculty, and will amend the Policy as appropriate.

## APPENDIX: REFERENCES TO OTHER POLICIES AND LEGISLATION

### Selected Relevant Legislation

- Ontario Bill 132, Sexual Violence and Harassment Action Plan Act, 2016
- Ontario Regulation 131/16: Sexual Violence at Colleges and Universities
- Freedom of Information and Protection of Privacy Act (FIPPA)
- Ontario *Human Rights Code*
- *Criminal Code of Canada*

### Selected Relevant University of Toronto Policies and Guidelines

- Code of Student Conduct
- Policy with Respect to Workplace Harassment
- Policy with Respect to Workplace Violence
- Human Resources Guideline on Civil Conduct
- Statement on Prohibited Discrimination and Discriminatory Harassment
- Guidelines for Employees on Concerns and Complaints Regarding Prohibited Discrimination and Discriminatory Harassment
- Standards of Professional Practice Behaviour for all Health Professions Students
- Policy on Conflict of Interest – Academic Staff
- Conflict of Interest and Close Personal Relations
- Conflict of Interest and Close Personal Relations Protocols for Chairs and Academic Administrators
- Guideline Regarding Close Personal Relations between Senior University Administrators