

FOR INFORMATION

PUBLIC

OPEN SESSION

TO: UTSC Campus Council

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DATE: November 8 for November 15, 2022

AGENDA ITEM: 4

ITEM IDENTIFICATION:

Revisions to the *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. **UTSC Campus Council [for information] (November 15, 2022)**
2. UTM Campus Council [for information] (November 16, 2022)
3. Academic Board [for information] (November 17, 2022)
4. University Affairs Board [for recommendation] (November 22, 2022)
5. Business Board [for information] (November 23, 2022)
6. Executive Committee [for endorsement and forwarding] (December 6, 2022)
7. Governing Council [for approval] (December 15, 2022)

PREVIOUS ACTION TAKEN:

The *Policy on Sexual Violence and Sexual Harassment* was approved by Governing Council on December 15, 2016. Subsequent revisions to the *Policy* were approved by Governing Council on December 12, 2019, and December 16, 2021.

HIGHLIGHTS:

Background

In 2016, the Government of Ontario passed Bill 132, the *Sexual Violence and Harassment Action Plan Act, 2016*, which, among other things, amended the *Ministry of Training, Colleges and Universities Act* (the “Act”) to require all publicly-funded universities and colleges in Ontario to 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 came into effect on January 1, 2017.

U of T’s *Policy on Sexual Violence and Sexual Harassment* was approved by Governing Council in December 2016. (Up to that point, the University had had an earlier sexual harassment policy in place.) Created as a component of the University’s Action Plan on Preventing and Responding to Sexual Violence, the content of the *Policy* was based on the recommendations of a U of T Expert Panel on Sexual Violence Policies. The draft policy was the subject of extensive consultation with students, staff, faculty members and governors across the three campuses.

Section VIII of the *Policy* requires the University to “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 to amend the Policy as appropriate. A similar requirement is outlined in the Act. Accordingly, in 2019 the *Policy* was reviewed and amended following community consultation, and the revised *Policy* was approved by Governing Council on December 12, 2019.

In September 2021, the Ontario government released a Provincial Announcement and updated regulations (Ontario Regulation 131/16 made under the Act) with new requirements for sexual violence policies to confirm that:

- A complainant acting in good faith, who discloses or reports sexual violence, will not be subject to actions for violations of the institution’s policies related to drug and alcohol use at the time the sexual violence took place.
- During the institution’s investigative process, students who share their experience of sexual violence through disclosing, accessing support, and/or reporting to the university or college, will not be asked irrelevant questions from institution’s staff or investigators, such as those relating to past sexual history or sexual expression.

These two legislated requirements were aligned with established practice at U of T under the *Policy* and required only minor changes to the *Policy*. These were approved by Governing Council on December 16, 2021, with the understanding that the second review of the *Policy* was underway at the time and that further revisions could be expected in a future governance cycle.

Second Review of the Policy on Sexual Violence and Sexual Harassment, 2021-22

The second review of the *Policy* was launched in Fall 2021, and was led by Professor Linda Johnston, Dean of the Lawrence S. Bloomberg Faculty of Nursing, and Dr. Allison Burgess, Director, Sexual & Gender Diversity Office. Its mandate was to seek feedback on the *Policy*, the *Student's Guide to the Policy*, and the supports and services available to the University community.

This second *Policy* review also invited feedback from the University community on four additional questions pertaining to the prevention of sexual violence and the support of survivors. These were:

1. What are the best practices to address the barriers to reporting and to provide support for survivors?
2. How do we appropriately account for power dynamics that are inherent in institutions of higher learning?
3. Given the importance of communication and transparency, what information can be shared with participants engaged in, and at the conclusion of, a sexual violence process while taking into account confidentiality, privacy obligations and a fair and effective process?
4. Should the university sector develop a process for sharing information between institutions about findings of sexual violence misconduct by faculty members?

Consultations

The first phase of consultation with members of the University community ran for five months beginning in October 2021.

The first phase of consultation included the following components:

- An online consultation portal which was open for five months, through which students, staff, faculty and librarians could provide feedback.
- Over 700 individuals participated in consultations with the reviewers.
- 54 consultation sessions were facilitated by the reviewers.
- Formal submissions were received from the University of Toronto Students' Union (UTSU), University of Toronto Graduate Students' Union (UTGSU), the PEARS Project, the UTM Sexual Violence and Harassment Prevention Committee, and the University of Toronto Mississauga Students' Union (UTMSU). All of these were carefully reviewed.
- Meetings with particular stakeholder groups, including:

- Academic administrators, such as Principals, Deans, Academic Directors and Chairs
- Representative Student Committees and other student societies making up the Provost’s Undergraduate Student Advisory Group;
- Staff members and staff groups involved in student support, student life, or who have a specific role in operationalizing the *Policy*, including Deans of Students, staff from the Sexual Violence Prevention and Support Centre and the Office of Safety and High-Risk, and the Forum on Student Experience;
- Prevention Empowerment Advocacy Response for Survivor (PEARS) Project and WomenattheCentre;
- Campus Safety offices on all three campuses
- Workplace Investigations
- Labour Relations
- Equity, Diversity, and Inclusion offices
- Indigenous community leaders
- Legal counsel

Following the first phase of consultations, the reviewers brought their draft recommendations to governance meetings for further consultation and discussion in Spring 2022. This additional feedback was carefully considered by the reviewers as they prepared their final report.

Final Report and Administrative Response

In July 2022, the reviewers submitted their final report to the President, the Provost, and the Vice-President, People Strategy, Equity & Culture. The report contained 10 major recommendations, each with numerous action items, to address the mandate and guiding questions of the review. It also contained over 25 suggested textual revisions to the *Policy*. The Administration accepted all of these recommendations in their Administrative Response in July 2022. Both the reviewers’ final report and the Administrative Response were published publicly in July 2022.

Revisions to the Policy under consideration

Over the Summer, the reviewers’ suggested revisions to the *Policy* were integrated in draft form into the text of the *Policy*. These draft revisions to the *Policy* were posted publicly online, and open for final feedback from the University community over three weeks in September and October.

The revisions to the *Policy* that are being considered at this meeting fall into two categories:

1. Changes to reflect the recommendations made by the reviewers (such as requirement for a public annual report providing statistical information about sexual violence at the University; increased clarity on non-adjudicative processes; stronger language on no-

tolerance for reprisals and retaliation; and formalization of information sharing with participants in the reporting process).

2. Changes to enhance flow and clarity of the *Policy* (such as alphabetization of the definitions section).

All revisions, and their sources, are found in the track-changes version of the *Policy*.

All other recommendations made by the reviewers regarding sexual violence processes are in the process of being implemented. This includes revising the *Provostial Guideline on Conflict of Interest and Close Personal Relations* at the same time as the creation of a similar guideline for staff, so that both guidelines will be aligned. The revisions to the *Provostial Guideline*, and the new staff guideline, will be brought to governance in a future governance cycle.

FINANCIAL IMPLICATIONS:

There are no direct implications for the University's operating budget at this time.

RECOMMENDATION:

For information

DOCUMENTATION PROVIDED:

Existing *Policy on Sexual Violence and Sexual Harassment* [December 16, 2021]

Proposed *Policy on Sexual Violence and Sexual Harassment* (October 25, 2022) [Track Changes Version]

Proposed *Policy on Sexual Violence and Sexual Harassment* [Clean Copy]



UNIVERSITY OF TORONTO

University of Toronto
Governing Council

Policy on Sexual Violence and Sexual Harassment

Approved December 16, 2021
Effective January 1, 2022

To request an official copy of this policy, contact:

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Policy on Sexual Violence and Sexual Harassment

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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.

Non-adjudicative Resolution: As described in section 78, this term refers to a resolution of the matters alleged in a Report that is agreed to by both the Complainant and the Respondent.

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.

I. 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. A companion guide is available to provide more information about this Policy to students.
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.

II. 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”] (www.svpscentre.utoronto.ca) 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.

III. 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. Complainants who in good faith make a Disclosure or Report about sexual violence will not be subject to discipline or sanctions for violations of the *Code of Student Conduct* or other University policies relating to drug or alcohol use at the time the alleged Sexual Violence occurred.
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.

IV. 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, interim conditions 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).

V. 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 Safety 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 Safety 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.

VI. 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 Safety 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.

VII. 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 Safety or 911 should be the first point of contact. In case of emergency, Sexual Violence can be Reported to Campus Safety, 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 Office of Safety and High Risk 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 accommodations, interim conditions and interim measures 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 conditions and interim measures, including those 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, interim conditions 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, People Strategy, Equity and Culture 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 opportunities 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. During the investigative process, University employees and the investigator will not ask the Complainant irrelevant questions, including those relating to the Complainant's sexual expression or past sexual history.
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, People Strategy, Equity and Culture 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, People Strategy, Equity and Culture, 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", or in any other situation where it has been specifically agreed to by both the Complainant and the Respondent, an opportunity to endeavour to reach a Non-adjudicative Resolution is available subject to two conditions:
 - a. Both parties must consent to such Non-adjudicative Resolution, and
 - b. Such Non-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."

VIII. 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 (rev. September 16, 2021)*
- *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*

Policy on Sexual Violence and Sexual Harassment

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Commented [A1]: Table of Contents updated with new section names/numbering.

DEFINITIONS

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

Affiliated Site: A hospital or research institution with which the University has an affiliation agreement that explicitly commits both the University and the other institution to following the *Protocol on Sexual Violence and Sexual Harassment Complaints involving Faculty Members and Students of the University of Toronto arising in Independent Research institutions, Health Care Institutions and Teaching Agencies for determining the jurisdiction and process with respect to sexual violence and/or harassment complaints arising at the Affiliated Site involving a Member of the University Community.*

Centre: The University of Toronto Sexual Violence Prevention and Support Centre.

Complainant: A Member of the University Community who has made a Disclosure or Report of an Incident of Sexual Violence experienced by that individual.

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 willful 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.

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.

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.

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

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.

Non-Adjudicative Resolution: As described in ~~section 78~~ **Section F**, this term refers to a resolution of the

Commented [A2]: The definitions have been reordered alphabetically for ease of reading.

Commented [A3]: Definition added.
Source: Final Report Line-by-line recommended changes (d).

Commented [A4]: Definition added for clarity.

Commented [A5]: Text updated to align with numbering in edited version.

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matters alleged in a Report that is agreed to by both the Complainant and the Respondent.

Reporting: ~~The sharing of information by an individual with a designated Member of the University Community the Centre or Campus Safety 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. A Report from a Complainant containing information regarding an Incident of Sexual Violence initiates the Reporting process.~~

Commented [A6]: Edited for clarity.

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

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.

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

Commented [A7]: Moved due to alphabetical reordering and incorporated into definition of Sexual Violence.

~~**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.~~

Commented [A8]: Moved due to alphabetical reordering.

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. For the purpose of this Policy, Sexual Harassment includes Cyber Sexual Harassment. 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.

Commented [A9]: Cyber sexual harassment and cyber sexual violence are not referenced elsewhere in the policy other than in the definitions. Accordingly, we incorporated the definitions into the overarching sexual harassment and sexual violence definitions.

~~**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.~~

Commented [A10]: Moved due to alphabetical reordering.

~~**Cyber Sexual Violence:** Includes 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, gender-based harassment or violence, cyber sexual violence, and sexual exploitation. 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~~

Commented [A11]: Definition of Cyber Sexual Violence has been incorporated into definition of Sexual Violence.

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.~~

Commented [A12]: Definition of Cyber Sexual Harassment has been incorporated into definition of 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.~~

Commented [A13]: Moved due to alphabetical reordering.

~~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.~~

Commented [A14]: Incorporated into definition of Consent and moved due to alphabetical reordering.

~~**Non adjudicative Resolution:** As described in section 78, this term refers to a resolution of the matters alleged in a Report that is agreed to by both the Complainant and the Respondent.~~

Commented [A15]: Moved due to alphabetical reordering.

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.

9. The University is committed to making every reasonable effort to ensure the steps provided for under this Policy are completed as expediently as possible. The University acknowledges, however, that time frames will vary depending on the circumstances involved.

10. The University is committed to information sharing with a Complainant and a Respondent to a Report, as set out in this Policy.

11. The University recognizes that power dynamics are inherent in institutions of higher learning and is committed to appropriately account for these dynamics in the processes set out in this Policy.

Commented [A16]: Addition to text. Source: Final Report Finding 1 (p. 12)

Commented [A17]: Addition to text. Source: Final Report Finding 4.

Commented [A18]: Addition to text. Source: Final Report Recommendation 10.

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~~12.~~ The University will not tolerate reprisals or retaliation against anyone who makes a Disclosure or Report of 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.

Commented [A19]: Addition to text. Source: Final Report Recommendation 10.

I. APPLICATION AND SCOPE

~~9-13.~~ 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. A companion guide is available to provide more information about this Policy to students.

~~10-14.~~ 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.

~~11-15.~~ 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.

II. EDUCATION, SUPPORT, AND RESOURCES

~~12-16.~~ 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 ~~45, 47, and 48.~~

Commented [A20]: Edited to update paragraph numbers to align with proposed revisions to text.

~~13-17.~~ The University has established the ~~University of Toronto Sexual Violence Prevention and Support Centre~~ ["the Centre"] (~~www.svpscentre.utoronto.ca~~) Centre 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.

Commented [A21]: Edited for consistency and clarity. "Centre" now appears in the Definitions section.

~~14-18.~~ 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.

~~15-19.~~ The University provides education and training on this Policy to Members of the University Community, as well as to contractors and members of the Governing Council of the University, 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.

Commented [A22]: Edits to text. Source: Final Report Line-by-line changes (a)

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~~16~~.20. The University provides support to Members of the University Community who have had an allegation of Sexual Violence made against them.

III. PRINCIPLES RESPECTING PROCESS

~~17~~.21. 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~~ 45, 47, and 48.

~~18~~.22. The University is committed to the provision of a fair process for all parties and one that respects due process and procedural fairness.

~~19~~.23. 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*. Complainants who in good faith make a Disclosure or Report about sexual violence will not be subject to discipline or sanctions for violations of the *Code of Student Conduct* or other University policies relating to drug or alcohol use at the time the alleged Sexual Violence occurred.

~~20~~.24. The University process will appropriately accommodate the needs of Members of the University Community who are affected by Sexual Violence.

~~21~~.25. 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.

26. The University will take reasonable steps to protect Complainants and others who participate in a process under this *Policy* from reprisal, 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 or interim conditions or interim measures appropriate in the circumstances. Threats of or acts of retaliation during a process under this *Policy* will be treated as new Incidents of Sexual Violence.

Commented [A23]: Addition to text. Source: Final Report Recommendation 10.

~~22~~.27. 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~~.28. The University will respond to Disclosures and/or Reports of Sexual Violence fairly and expeditiously.

IV. CONFIDENTIALITY AND PRIVACY

~~24~~.29. 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~~.30. The University will limit sharing of information ~~to those~~ within the University to those who

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need to know the information for the purposes of implementing this *Policy* and/or other University policies, including providing accommodation, interim conditions 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.

Commented [A24]: Edits to text. Source: Final Report Finding 4

31. Where a Complainant wishes to make a Report, fairness to the Respondent will require sharing of the Complainant's identity and the relevant allegations being made. The University will advise a Complainant before it shares this information with the Respondent.

Commented [A25]: This text was previously contained in paragraph 25 of the unedited *Policy*.

26.32. Confidentiality cannot be maintained in exceptional circumstances, such as when 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:

Commented [A26]: Edited for clarity.

- 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); and/or
- d) information about residents, clinical fellows or clinical faculty, or students on a health sector placement needs to be shared with an Affiliated Site, pursuant to an Affiliation Agreement. In such cases, the Affiliation Agreement protocols, and/or the protocols of a professional regulatory body would require the sharing of investigation results and of corrective action that has or will follow.

Commented [A27]: Addition to text. Source: Final Report Line-by-line changes (f).

V. ACCESSING THE *POLICY*: DISCLOSURE AND REPORTING

27.33. 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.

28.34. 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.

29.35. Reporting is the sharing of information by an individual with the Centre or Campus Safety 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 Safety will be designated to receive Reports under this *Policy*.

Commented [A28]: Edited for clarity.

36. In most circumstances, Complainants will initiate the Reporting process at the Centre. If a Complainant makes a Disclosure elsewhere at the University, they should be directed to the Centre. In emergencies, where the safety or health of the Complainant may be at risk, the Complainant will be directed to make a Report to Campus Safety.

Commented [A29]: Addition to text. Source: Final Report Recommendation 1.

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~~30.37.~~ 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 Safety immediately.

~~31.38.~~ 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 of~~ 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.

Commented [A30]: Edited text. Source: Final Report Line by line changes (i)

VI. DISCLOSURE

~~32.39.~~ 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.

~~40.~~ The University respects a Complainant's right to choose whether and how to pursue action related to an Incident of Sexual Violence. In the absence of a Report, except as otherwise provided for in this Policy, a Disclosure will usually result in no further action against a potential Respondent.

Commented [A31]: Addition to text. Change made to reflect general feedback.

~~33.41.~~ 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.

~~34.42.~~ 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.

~~35.43.~~ 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.

~~36.44.~~ 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.

Commented [A32]: Deletion. Information moved up to paragraph 40.

Commented [A33]: Deletion. Information included in paragraph 32.

~~38-45.~~ The University will make support and services, including counselling, access or referrals to medical, legal or other 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.

~~39-46.~~ 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*.

~~40-47.~~ The Centre will make support staff available by phone, email, or through Campus Safety on a 24/7 basis. These staff members can provide guidance and support to a Complainant through the process of Disclosure and/or Reporting.

~~41-48.~~ 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.

Commented [A34]: Addition to text. Source: Final Report Recommendation 7.

Commented [A35]: Deletion. Information moved to paragraph 55.

VII. REPORTING

A. REPORTING PROCESS

~~42-49.~~ To initiate a report in non-emergency situations, the Complainant should contact the Centre is responsible for receiving Reports of Incidents of Sexual Violence involving a Member of the University Community in a non-emergency situation. In an emergency, Campus Safety or 911 should be the first point of contact. In case of emergency, Sexual Violence can be Reported to 911 or Campus Safety, 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.

~~44-50.~~ 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 Office of Safety and High Risk will maintain a confidential database of Reports received.

~~45-51.~~ The University has the jurisdiction to investigate Reports of Sexual Violence made against a Member of the University Community under this *Policy*.

~~46-52.~~ 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.

~~47-53.~~ 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.

~~48-54.~~ 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.

Commented [A36]: This paragraph combines two paragraphs of the earlier Policy into a single paragraph and has been edited for clarity and to eliminate redundancy.

~~55. At the time of the notification of a Report, the Respondent will be made aware of the supports that are available to them.~~

Commented [A37]: Addition to text. Source: Final Report Recommendation 7.

49-56. 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.

50-57. 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.~~

Commented [A38]: Deletion. Information moved up to paragraph 26.

B. UNIVERSITY RESPONSE TO A REPORT

Commented [A39]: Heading edited for clarity.

~~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.~~

Commented [A40]: Deletion. Paragraph 9 in the Statement of Commitment commits the University to moving as expediently as possible to respond to Reports of Sexual Violence. This includes the Centre, as well as other offices in the University.

53-58. At the intake discussion, the 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 accommodations, interim conditions and interim measures that may be available to address the immediate situation.

Commented [A41]: Deletion. Source: Final Report Line-by-line changes (k).

54-59. 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.

55-60. 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:

Commented [A42]: Edited to reflect that the first point of contact following a Report may not be with the Centre, which is the entity that outlines these supports.

- 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];~~ <https://www.svpscentre.utoronto.ca/resources/>;
- b) ~~offer from the University to, where appropriate, communicate with the person said to have engaged in Sexual Violence Respondent~~ 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 conditions and interim measures, including those provided for under and in accordance with other University policies such as

Commented [A43]: Edit to text. Source: Line-by-line changes (l).

Commented [A44]: Edited for clarity.

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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~~ regular updates about the investigation and decision-making processes that may occur, ~~depending on the role of the Respondent within the University community.~~

Commented [A45]: Edited text. Source: Final Report Finding 4.

Commented [A46]: Deleted text. Source: Final Report Line-by-line changes (m).

56-61. The Office of Safety and High Risk will be responsible for coordinating the implementation of accommodations, interim conditions 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

i. ASSESSMENT

57-62. While the Centre receives Disclosures and initiates Reports, the assessment and investigation processes will be coordinated through the Office of Safety and High Risk.

58-63. 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.

59-64. ~~The Complainant can choose not to request an investigation by the University and The Complainant~~ 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."

Commented [A47]: Edited text. Source: Final Report Line-by-line changes (o).

60-65. 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.

61-66. 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 ~~1431 calendar~~ days of the decision to the Vice-President and Provost or designate or to the Vice-President, People Strategy, Equity and Culture or designate, who will review the matter and advise the Complainant of their decision in writing. ~~within 31 calendar days.~~

Commented [A48]: Specification and change in timeframe. Source: Final Report Line-by-line changes (p).

Commented [A49]: Specification and change in timeframe. Source: Line-by-line changes (q).

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67. The University has an existing Protocol to determine, with Affiliated Sites, the appropriate jurisdiction for any complaints involving sexual violence and/or harassment complaints arising at an Affiliated Site involving a Member of the University Community. The Office of Safety and High Risk must have regard to this Protocol and the associated jurisdictional analysis for determining whether the University or Affiliated Site will take the lead in investigating the complaint, or if it is joint jurisdiction, the process to be followed, which is also set out in the Protocol. The University must also have regard to this Protocol in cases where it requires the sharing of investigation results and of corrective action that has or will follow.

Commented [A50]: Addition to text. Source: Final Report Line-by-line changes (n) and Recommendation 11.

ii. APPOINTMENT OF AN INVESTIGATOR

62-68. 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.

63-69. 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 opportunities 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

64-70. 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.

65-71. 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.

66-72. 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.

67-73. The Complainant and Respondent may choose to submit any additional information to the investigator, including the names of any potential witnesses.

68-74. 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. During the investigative process, University employees and the investigator will not ask the Complainant irrelevant questions, including those relating to the Complainant's sexual expression or past sexual history.

~~69-75.~~ 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*.

~~70-76.~~ The investigator will remind ~~individuals contacted~~ the Complainant, Respondent, and witnesses of the provisions outlined in the "Confidentiality and Privacy" section of this *Policy* ~~and. In speaking with these individuals, the Investigator will~~ keep confidential the personal information of ~~the people contacted, witnesses, including names and identifying details, in order to preserve the integrity of the investigation.~~

~~71-77.~~ 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.

~~72-78.~~ 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

~~73-79.~~ In the case of a student Respondent, the investigation report will be reviewed by the Vice-Provost, Students or ~~delegated designate~~ 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, what~~ the appropriate ~~penalty or remedies, sanctions would be.~~ 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*.

~~74-80.~~ In the case of a staff member Respondent, the investigation report will be reviewed by the Vice-President, People Strategy, Equity ~~and~~ Culture or designate, who will determine whether ~~workplace violence and/or Sexual Violence occurred~~ the *Policy* has been breached, 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.

~~75-81.~~ 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, People Strategy, Equity ~~and~~ Culture, will review the investigation report and determine whether ~~workplace and/or Sexual Violence occurred~~ and the *Policy* has been breached and, if so, 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.

Commented [A51]: Edited text. Source: Final Report Line-by-line changes (r).

Commented [A52]: Edited text. Source: Final Report Line-by-line changes (s).

Commented [A53]: Edited for clarity.

Commented [A54]: Edited text. Source: Final Report Line-by-line changes (t) and (u).

Commented [A55]: Edited text. Source: Final Report Line-by-line changes (t) and (u).

~~82. In the case of a Respondent who is a post-graduate medical resident, post-graduate clinical or research fellow and/or a clinical faculty member who works or studies at an Affiliated Site, the investigation report will be reviewed by the Provost or designate in consultation with the Vice-Provost, Relations with Health Care Institutions or designate, who will determine whether the Policy has been breached and, if so, the appropriate sanctions or discipline and corrective action. 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.~~

Commented [A56]: Addition to text. Source: Final Report
Line-by-line changes (v).

~~83. In the case of a Respondent who is a status-only or adjunct faculty member or visiting professor, the investigation report will be viewed by the Vice-Provost, Faculty & Academic Life, who will determine whether the Policy has been breached and, if so, the appropriate sanctions or discipline and corrective action. 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.~~

Commented [A57]: Addition to text. Source: Final Report
Line-by-line changes (w).

~~76-84.~~ 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~~ 79-83, the University will decide which process(es) will apply in the circumstances of the particular case.

~~77-85.~~ 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", or in any other situation where it has been specifically agreed to by both the Complainant and the Respondent, an opportunity to endeavour to reach a Non-adjudicative Resolution is available subject to two conditions:~~

Commented [A58]: Replaced with new section on Non-Adjudicative Resolution (Section F, below).

- ~~a. Both parties must consent to such Non-adjudicative Resolution, and~~
- ~~b. Such Non-adjudicative Resolution must not require any face-to-face meeting between the Complainant and the Respondent.~~

~~86. Complainants and Respondents will be notified of the outcomes of investigations. Subject to any applicable legal obligations and access to information and privacy legislation, Complainants may be made aware of what corrective actions have been taken or will be taken (if any). Other participants (e.g. witnesses) may also be notified when a process has concluded.~~

Commented [A59]: Addition to text. Source: Final Report
Finding 4, Recommendation 11, and line-by-line changes (y).

~~79-87. Wherever practicable, the University if the respondent's relationship to the University ends will continue to that person conclude an Investigation even if the Respondent and/or Complainant 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~~

Commented [A60]: Text edited. Source: Final Report,
Recommendation 12.

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with the University for the purposes of this *Policy*.

F. NON-ADJUDICATIVE PROCESS AND OUTCOMES

88. A non-adjudicative process is where a neutral facilitator engages in discussions with the Complainant and Respondent about possible outcomes. Non-Adjudicative Resolutions may include an apology, a no-contact order, course registration preference, priority for U of T activities, and counselling/education.

89. An opportunity to engage in a non-adjudicative process requires two conditions to be in place. These also apply where existing University policies' adjudicative processes include "informal resolution" or "mediation." These conditions are:

a. Both the Complainant and Respondent must agree to participate in the process and the terms of a Non-Adjudicative Resolution; and

a.b. The process cannot require face-to-face contact between the Complainant and Respondent.

90. A Complainant or Respondent can request Non-Adjudicative Resolution at any stage after a Report has been made under this *Policy*.

91. If no decision is reached under the non-adjudicative process, or the Respondent fails to comply with the Non-Adjudicative Resolution, the Complainant may request to return the matter to the processes set out in Sections D and E. Information shared by the Complainant and the Respondent during the non-adjudicative process can be used if the matter subsequently proceeds to an investigation and/or hearing.

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

~~80-92.~~ 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.

~~81-93.~~ 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~~ the Complainant'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. The Complainant but is entitled to receive other supports~~ supports outlined in this *Policy* regardless of whether they decide. The Complainant will also still be entitled to request ~~be made aware of the outcome of an investigation or choose not to participate in one.~~ 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.~~ may be made aware what corrective actions have been taken (if any).

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

~~84-94.~~ An allegation of Sexual Violence made by someone other than the Complainant can also be

Commented [A61]: New section added. Source: Finding 1, p. 12.

Commented [A62]: Source: Final Report Line-by-line changes (y).

Commented [A63]: This paragraph combines three previous paragraphs (81-83) into one.

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~~Reported~~the subject of a Report 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.

Commented [A64]: Text edited for clarity.

~~85.95.~~ It may transpire that an allegation of Sexual Violence is ~~Reported~~to the subject of a Report made 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.

Commented [A65]: Text edited for clarity.

~~86.96.~~ In such circumstances, the University will make a determination under the section of this Policy entitled “Assessment and Appointment of an Investigator.”

I. ANNUAL REPORT

97. The University will produce and post publicly an annual report that provides aggregate statistical information, without names or personal information, about sexual violence at the University.

Commented [A66]: New section and paragraph added. Source: Final Report Recommendation 2.

VIII. REVIEW

~~87.98.~~ 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.

~~88.99.~~ 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 (rev. September 16, 2021)*
- *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*~~

Commented [A67]: Edited because all discussions of conflict of interest and close personal relationships are being integrated into the Guideline on Conflict of Interest and Close Personal Relations (above)

Policy on Sexual Violence and Sexual Harassment

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DEFINITIONS

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

Affiliated Site: A hospital or research institution with which the University has an affiliation agreement that explicitly commits both the University and the other institution to following the *Protocol on Sexual Violence and Sexual Harassment Complaints Involving Faculty Members and Students of the University of Toronto arising in Independent Research Institutions, Health Care Institutions and Teaching Agencies* for determining the jurisdiction and process with respect to sexual violence and/or harassment complaints arising at the Affiliated Site involving a Member of the University Community.

Centre: The University of Toronto Sexual Violence Prevention and Support Centre.

Complainant: A Member of the University Community who has made a Disclosure or Report of an Incident of Sexual Violence experienced by that individual.

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 willful 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.

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.

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.

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

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.

Non-Adjudicative Resolution: As described in Section F, this term refers to a resolution of the matters

alleged in a Report that is agreed to by both the Complainant and the Respondent.

Reporting: The sharing of information by an individual with the Centre or Campus Safety 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. A **Report** from a Complainant containing information regarding an Incident of Sexual Violence initiates the Reporting process.

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

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.

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. For the purpose of this *Policy*, Sexual Harassment includes Cyber Sexual Harassment. 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.

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, gender-based harassment or violence, cyber sexual violence, and sexual exploitation. 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.

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.
9. The University is committed to making every reasonable effort to ensure the steps provided for under this *Policy* are completed as expediently as possible. The University acknowledges, however, that time frames will vary depending on the circumstances involved.
10. The University is committed to information sharing with a Complainant and a Respondent to a Report, as set out in this *Policy*.
11. The University recognizes that power dynamics are inherent in institutions of higher learning and is committed to appropriately account for these dynamics in the processes set out in this *Policy*.

12. The University will not tolerate reprisals or retaliation against anyone who makes a Disclosure or Report of 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.

I. APPLICATION AND SCOPE

13. 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. A companion guide is available to provide more information about this *Policy* to students.
14. 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.
15. 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.

II. EDUCATION, SUPPORT, AND RESOURCES

16. 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 45, 47, and 48.
17. The University has established the Centre 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.
18. 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.
19. The University provides education and training on this *Policy* to Members of the University Community, as well as to contractors and members of the Governing Council of the University, 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.
20. The University provides support to Members of the University Community who have had an

allegation of Sexual Violence made against them.

III. PRINCIPLES RESPECTING PROCESS

21. 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 45, 47, and 48.
22. The University is committed to the provision of a fair process for all parties and one that respects due process and procedural fairness.
23. 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*. Complainants who in good faith make a Disclosure or Report about sexual violence will not be subject to discipline or sanctions for violations of the *Code of Student Conduct* or other University policies relating to drug or alcohol use at the time the alleged Sexual Violence occurred.
24. The University process will appropriately accommodate the needs of Members of the University Community who are affected by Sexual Violence.
25. 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.
26. The University will take reasonable steps to protect Complainants and others who participate in a process under this *Policy* from reprisal, 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 or interim conditions or interim measures appropriate in the circumstances. Threats of or acts of retaliation during a process under this *Policy* will be treated as new Incidents of Sexual Violence.
27. 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.
28. The University will respond to Disclosures and/or Reports of Sexual Violence fairly and expeditiously.

IV. CONFIDENTIALITY AND PRIVACY

29. 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*.
30. The University will limit sharing of information within the University to those who need to

know the information for the purposes of implementing this *Policy* and/or other University policies, including providing accommodation, interim conditions and interim measures, and the investigation and decision-making processes; and taking corrective action resulting from those processes.

31. Where a Complainant wishes to make a Report, fairness to the Respondent will require sharing of the Complainant's identity and the relevant allegations being made. The University will advise a Complainant before it shares this information with the Respondent.
32. Confidentiality cannot be maintained in exceptional circumstances, such as when 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;
 - 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); and/or
 - d) information about residents, clinical fellows or clinical faculty, or students on a health sector placement needs to be shared with an Affiliated Site, pursuant to an Affiliation Agreement. In such cases, the Affiliation Agreement protocols, and/or the protocols of a professional regulatory body would require the sharing of investigation results and of corrective action that has or will follow.

V. ACCESSING THE *POLICY*: DISCLOSURE AND REPORTING

33. 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.
34. 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.
35. Reporting is the sharing of information by an individual with the Centre or Campus Safety 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.
36. In most circumstances, Complainants will initiate the Reporting process at the Centre. If a Complainant makes a Disclosure elsewhere at the University, they should be directed to the Centre. In emergencies, where the safety or health of the Complainant may be at risk, the Complainant will be directed to make a Report to Campus Safety.
37. 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 Safety immediately.

38. 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 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.

VI. DISCLOSURE

39. 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.
40. The University respects a Complainant's right to choose whether and how to pursue action related to an Incident of Sexual Violence. In the absence of a Report, except as otherwise provided for in this *Policy*, a Disclosure will usually result in no further action against a potential Respondent.
41. 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.
42. 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.
43. 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.
44. 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.
45. The University will make support and services, including counselling, access or referrals to medical, legal or other services, and academic and other accommodations, available to Members of the University Community who Disclose having been affected by an Incident of Sexual Violence. Persons affected by an Incident of Sexual Violence should contact the Centre to obtain such support and services.
46. 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*.
47. The Centre will make support staff available by phone, email, or through Campus Safety on a 24/7 basis. These staff members can provide guidance and support to a Complainant through the process of Disclosure and/or Reporting.

48. 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.

VII. REPORTING

A. REPORTING PROCESS

49. To initiate a report in non-emergency situations, the Complainant should contact the Centre. In case of emergency, Sexual Violence can be Reported to 911 or Campus Safety, 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.
50. 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 Office of Safety and High Risk will maintain a confidential database of Reports received.
51. The University has the jurisdiction to investigate Reports of Sexual Violence made against a Member of the University Community under this *Policy*.
52. 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.
53. 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.
54. 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.
55. At the time of the notification of a Report, the Respondent will be made aware of the supports that are available to them.
56. 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*.
57. 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.

B. UNIVERSITY RESPONSE TO A REPORT

58. 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 accommodations, interim conditions and interim measures that may be available to address the immediate situation.
59. 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.
60. Some of the options that may be made available to the Complainant 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 <https://www.svpscentre.utoronto.ca/resources/>;
 - b) offer from the University to, where appropriate, communicate with the Respondent 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 conditions and interim measures, including those 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) regular updates about the investigation and decision-making processes that may occur.
61. The Office of Safety and High Risk will be responsible for coordinating the implementation of accommodations, interim conditions 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

i. ASSESSMENT

62. While the Centre receives Disclosures and initiates Reports, the assessment and investigation processes will be coordinated through the Office of Safety and High Risk.
63. 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.

64. The Complainant can choose not to request an investigation by the University. The Complainant 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.”
 65. 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.
 66. 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 31 calendar days of the decision to the Vice-President and Provost or designate or to the Vice-President, People Strategy, Equity and Culture or designate, who will review the matter and advise the Complainant of their decision in writing within 31 calendar days.
 67. The University has an existing [Protocol](#) to determine, with Affiliated Sites, the appropriate jurisdiction for any complaints involving sexual violence and/or harassment complaints arising at an Affiliated Site involving a Member of the University Community. The Office of Safety and High Risk must have regard to this Protocol and the associated jurisdictional analysis for determining whether the University or Affiliated Site will take the lead in investigating the complaint, or if it is joint jurisdiction, the process to be followed, which is also set out in the Protocol. The University must also have regard to this Protocol in cases where it requires the sharing of investigation results and of corrective action that has or will follow.
- ii. APPOINTMENT OF AN INVESTIGATOR
68. 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.
 69. 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 opportunities 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

70. 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.
71. 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.
72. 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.
73. The Complainant and Respondent may choose to submit any additional information to the investigator, including the names of any potential witnesses.
74. 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. During the investigative process, University employees and the investigator will not ask the Complainant irrelevant questions, including those relating to the Complainant's sexual expression or past sexual history.
75. 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*.
76. The investigator will remind the Complainant, Respondent, and witnesses of the provisions outlined in the "Confidentiality and Privacy" section of this *Policy*. In speaking with these individuals, the Investigator will keep confidential the personal information of witnesses, including names and identifying details, in order to preserve the integrity of the investigation.
77. 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.
78. 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

79. In the case of a student Respondent, the investigation report will be reviewed by the Vice-Provost, Students or designate to determine whether or not the matter will be referred for a hearing under the *Code of Student Conduct*, and if so, what the appropriate sanctions would be.

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*.

80. In the case of a staff member Respondent, the investigation report will be reviewed by the Vice-President, People Strategy, Equity & Culture or designate, who will determine whether the *Policy* has been breached, and, if so, the appropriate sanctions or discipline and corrective action. 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.
81. 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, People Strategy, Equity & Culture, will review the investigation report and determine whether the *Policy* has been breached and, if so, impose the appropriate discipline, sanction or corrective action. 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.
82. In the case of a Respondent who is a post-graduate medical resident, post-graduate clinical or research fellow and/or a clinical faculty member who works or studies at an Affiliated Site, the investigation report will be reviewed by the Provost or designate in consultation with the Vice-Provost, Relations with Health Care Institutions or designate, who will determine whether the *Policy* has been breached and, if so, the appropriate sanctions or discipline and corrective action. 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.
83. In the case of a Respondent who is a status-only or adjunct faculty member or visiting professor, the investigation report will be viewed by the Vice-Provost, Faculty & Academic Life, who will determine whether the *Policy* has been breached and, if so, the appropriate sanctions or discipline and corrective action. 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.
84. 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 79-83, the University will decide which process(es) will apply in the circumstances of the particular case.
85. 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.
86. Complainants and Respondents will be notified of the outcomes of investigations. Subject to

any applicable legal obligations and access to information and privacy legislation, Complainants may be made aware of what corrective actions have been taken or will be taken (if any). Other participants (e.g. witnesses) may also be notified when a process has concluded.

87. Wherever practicable, the University will continue to conclude an Investigation even if the Respondent and/or Complainant is no longer a Member of the University Community. 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. NON-ADJUDICATIVE PROCESS AND OUTCOMES

88. A non-adjudicative process is where a neutral facilitator engages in discussions with the Complainant and Respondent about possible outcomes. Non-Adjudicative Resolutions may include an apology, a no-contact order, course registration preference, priority for U of T activities, and counselling/education.
89. An opportunity to engage in a non-adjudicative process requires two conditions to be in place. These also apply where existing University policies' adjudicative processes include "informal resolution" or "mediation." These conditions are:
 - a. Both the Complainant and Respondent must agree to participate in the process and the terms of a Non-Adjudicative Resolution; and
 - b. The process cannot require face-to-face contact between the Complainant and Respondent.
90. A Complainant or Respondent can request Non-Adjudicative Resolution at any stage after Report has been made under this *Policy*.
91. If no decision is reached under the non-adjudicative process, or the Respondent fails to comply with the Non-Adjudicative Resolution, the Complainant may request to return the matter to the processes set out in Sections D and E. Information shared by the Complainant and the Respondent during the non-adjudicative process can be used if the matter subsequently proceeds to an investigation and/or hearing.

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

92. 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.
93. 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 the Complainant'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 but is entitled to receive supports outlined in this *Policy*. The Complainant will also still be entitled to be made aware of the outcome of an investigation, and subject to any applicable legal obligations and access to information and privacy legislation, may be made aware what corrective actions have been taken (if any).

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

94. An allegation of Sexual Violence made by someone other than the Complainant can also be the subject of a Report 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.
95. It may transpire that an allegation of Sexual Violence is the subject of a Report made 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.
96. In such circumstances, the University will make a determination under the section of this *Policy* entitled "Assessment and Appointment of an Investigator."

I. ANNUAL REPORT

97. The University will produce and post publicly an annual report that provides aggregate statistical information, without names or personal information, about sexual violence at the University.

VIII. REVIEW

98. 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.
99. 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 (rev. September 16, 2021)*
- *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*