



**FOR INFORMATION &
FEEDBACK**

PUBLIC

OPEN SESSION

TO: University Affairs Board

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DATE: October 16, 2025 for October 23, 2025

AGENDA ITEM: 4

ITEM IDENTIFICATION:

Revisions and review of 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. UTM Campus Council [for information and feedback] (October 6, 2025)
2. UTSC Campus Council [for information and feedback] (October 6, 2025)
3. Academic Board [for information and feedback] (October 9, 2025)
4. **University Affairs Board [for information and feedback] (October 23, 2025)**

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, December 16, 2021, and December 15, 2022. Revisions to the *Policy on Sexual Violence and Sexual Harassment* were last received for information by UAB on November 16, 2022.

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* 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* was approved by Governing Council in December 2016. 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 staff, students, and faculty”, and to amend the *Policy* as appropriate. The *Policy* is aligned with the provincial requirements for sexual violence policies, including the requirement to undertake regular reviews.

The last review was completed in 2022. The revised *Policy* was approved by Governing Council on December 15, 2022, and came into effect on January 1, 2023.

The University launched the current review of the *Policy* on January 15, 2025. The focus of the 2025 review was to assess the impact of the last round of changes to the *Policy* and related processes that were made in response to the 2022 review recommendations, and to identify any further opportunities to improve the *Policy*.

The 2025 review had two parts: 1) a broad consultation with staff, students, faculty, and librarians; and 2) an external review by a legal expert.

1) Consultations with staff, students, faculty, and librarians

The first phase of consultations took place between January 15 – March 28, 2025, and was chaired by Professor Faye Mishna. The consultations included the following components:

- **Email solicitation** for feedback from student societies representing students on all three campuses, UTFA and union leadership, and a student advocacy group.
- **Engagement sessions** with key partners including the following:
 - Academic administrators, including Vice-Presidents, Vice-Provosts, Principals, Deans, Academic Directors, and Chairs.

- Staff members and staff groups involved in operationalizing the *Policy*, including Deans of Students, staff from the Sexual Violence Prevention and Support Centre, the Office of Safety and High-Risk, HR directors and the Workplace Investigations staff, and Campus Safety offices.
- University Legal Counsel and the Office of the Ombudsperson.
- Equity office directors.
- **Open consultation meetings** with the following groups:
 - Students, staff, faculty, and librarians at each campus.
 - Racialized community members; Indigenous community members; 2SLGBTQ+ community members; and persons with lived experiences of disability.
- **An online, anonymous form** through which students, staff, faculty, and librarians could submit written feedback.

Over 200 community members provided input through the consultations. The *Policy* review team held 45 hours of consultation over 10 weeks, and a formal submission was received from UTSU and UTGSU.

In Spring 2025, Professor Mishna presented a summary of the consultation input for information to UTM Campus Council, UTSC Campus Council, University Affairs Board, Academic Board, and Governing Council.

Summary of consultation input:

1. **Clarity and Transparency:** The University should consider providing new and clarifying existing definitions, strengthening the “Statement of Commitments” section, and adding more details to several key topics in the *Policy*. There was strong support for new online navigation tools to help community members navigate the *Policy*.
2. **Process and Communication Improvements:** The University should consider undertaking an internal review of the *Policy*’s processes and related communications to improve clarity and efficiency; creating a new decision-making pathway for the Vice-Provost Students to impose sanctions in student Respondent cases where expulsion or suspension are not warranted; providing more information in the *Policy* on topics such as Respondent supports, non-adjudicative resolution, and the University’s response to reprisals. There was strong support for prioritizing the provision of more navigation support to participants in the *Policy*.

3. **Timelines:** The University should consider providing more information about how long key processes should take under the *Policy*.
4. **Scope of the *Policy*:** The University should consider clarifying the extent to which the *Policy* may apply to other issues such as intimate partner violence.
5. **Education, Training, and Awareness:** The University should consider creating new educational programs for student Respondents when a sanction or education has been imposed; and creating new mandatory training for key roles that are likely to receive disclosures and/or implement processes and make decisions under the *Policy*.

2) External Legal Review

In addition to the community consultations, the University retained an external expert, Gillian Hnatiw, to provide an independent review of the *Policy*. A Toronto-based lawyer, Ms. Hnatiw is one of Canada's leading legal experts in gender-based violence and frequently takes on cases involving sexual assault, abuse, harassment, family violence, voyeurism and the non-consensual distribution of intimate images. In addition, she is an expert in administrative and public law, professional liability, health law, employment law, and general commercial litigation.

The University asked Ms. Hnatiw to review the *Policy* from an administrative law perspective and assess whether there are aspects of the *Policy* that we should consider improving, updating, or changing. Feedback from the University's consultations will also be shared with Ms. Hnatiw for her awareness and consideration.

Ms. Hnatiw submitted her final report with recommendations to the University on August 21, 2025.

Summary of Ms. Hnatiw's recommendations:

1. **Definitions:** The University should consider adding new and updating current definitions, e.g. gender-based violence, intimate partner violence, tech-facilitated violence, coercive control, consent and non-adjudicative violence.
2. **Statement of Commitment:** The University should consider updating the Statement of Commitment section by emphasizing the impact of sexual violence on Indigenous communities, and the myths about how sexual violence survivors should behave.
3. **New reporting avenues:** The University should consider adding new avenues for a member of the University to make a Report of sexual violence to the University.

4. **Non-adjudicative Resolution:** The University should consider renaming and broadening the section on non-adjudicative resolution and processes.
5. **Timelines:** The University should consider adding timelines to specific sections in the Policy.
6. **Decision-making authority:** The University should consider broadening the Vice-Provost Students' decision-making authority with student Respondents to impose sanctions directly in cases where expulsion and suspension are not warranted.

Revisions to Policy under consideration

Over the summer, the *Policy* review team carefully considered the consultation input and Ms. Hnatiw's recommendations and made draft revisions to the *Policy*. These draft revisions were posted publicly online for final feedback from the University community over two weeks during September 23 – October 8, 2025.

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

FINANCIAL IMPLICATIONS:

- None.

RECOMMENDATION:

- For information and feedback.

DOCUMENTATION PROVIDED:

- Presentation slides
- Current Policy on Sexual Violence and Sexual Harassment, December 15, 2022
- Proposed revisions to the Policy on Sexual Violence and Sexual Harassment (track changes)
- Proposed revisions to the Policy on Sexual Violence and Sexual Harassment (clean copy)
- Memo from the external expert, Ms Gillian Hnatiw



To:	Dr. Sandy Welsh, Vice Provost, Student
From:	Gillian Hnatiw
Date:	August 21, 2025
Re:	Review of the University of Toronto's <i>Policy on Sexual Violence and Harassment</i>

Dear Dr. Welsh,

As you know, I was retained to conduct an impartial and independent review of the University of Toronto's *Policy on Sexual Violence and Sexual Harassment (the "Policy")*. The Policy is reviewed every three years in accordance with Bill 132 and Section VIII of the Policy itself, and amended as appropriate.

In the course of my retainer, I reviewed the policy, read and considered eight anonymized case files selected and provided to me by the University, reviewed the summary of feedback provided to Prof. Faye Mishna during her consultations with students, staff and faculty, conducted interviews, and read and considered "Centering Voices of Students and Survivors: A Trauma-Informed Policy Analysis" prepared by The Pears Project. I also met with you and other members of the Review Committee to discuss your operational experience working with the Policy.

This memo provides sets out my comments and advice on potential amendments and improvements to the Policy. Although I considered the entire document in detail, I have not addressed every section of the Policy in writing; where the memo is silent, I am content with the Policy as written. Similarly, I have not attempted to address every concern expressed to Dr. Mishna or identified in the report prepared by the Pears Project,

although I read both documents with interest. The input provided was essential to my review process

If my memo is silent on an issue, then I am not recommending any changes in relation to that issue to the Policy itself. This does not mean I am recommending against changes to other processes, guidelines, policies and/or documents that may be affected by stakeholder feedback. As my retainer is limited to reviewing the Policy itself, I consider recommendations about potential changes to other documents or operational issues to be beyond the scope of my mandate.

Definitions Section

Language choices in sexual violence policies are challenging. To use one obvious example, individuals who have experienced sexual violence often prefer to be referred to as “survivors”. However, that preference is not universally shared; some individuals prefer “victim” or “person who experience sexual violence”, among other terms. In therapeutic, support and advocacy contexts, it is important to defer to an individual’s preferred terminology whenever possible.

By comparison, sexual violence policies typically adopt more neutral terminology, such as “complainant” or “report-maker”, to avoid the appearance of pre-judging the outcome before the alleged wrong-doer has an opportunity to respond to the allegations or an investigation can occur. In my opinion, it is appropriate for the Policy to continue to employ this type of neutral language. The legal framework used to investigate and adjudicate allegations must offer – and appear to offer – fairness to all parties.

During my review, I did not encounter or observe any functional issues arising from specific gaps in the “Definitions” section of the policy. I note, however, that the Pears Project is advocating for a list of additional terms to be incorporated into the Policy as part of the 2026 update. While the definition section should remain functionally linked to the substance of the policy, I agree with the importance of naming certain types of conduct

to ensure it is properly seen and understood. In that spirit, here are some additional terms the University should consider adding to the definitions section of the Policy:

- **Gender-based violence**, as distinct from gender-based harassment and as a particular form of sexualized violence. This may be an appropriate place to acknowledge that gender-based violence disproportionately impacts indigenous and racialized women, girls and 2SLGBTQQIA people.¹
- **Intimate-partner violence**, as distinct from gender-based violence, and as a distinct form of sexualized violence.
- **Tech-facilitated violence** (or tech-facilitated sexual violence), as a distinct form of sexual violence. This would offer a more specific umbrella term to identify some of the acts already high-lighted within the definition of “sexual violence”, such as voyeurism, and should also include mention of deep fakes, doxxing, the non-consensual distribution of intimate images, cyber-stalking and cyber-misogyny. Tech-facilitated violence is proliferating with the rise of AI, and this is an opportunity for the University to more explicitly recognize the problem.²
- **Coercive control**, which involves an act or pattern of acts that humiliate, intimidate, isolate, exploit and/or manipulate an individual in a bid to control their behavior and are frequently accompanied by acts of physical or sexual coercion. Alternatively, or in addition, “**family violence**” could be added and defined. The law has used the two terms somewhat interchangeably in recent years. Hopefully, the Supreme Court’s decision in [Alhuwalia v Alhuwalia](#), which is expected sometime this fall, will offer clarity on the legal meaning of both terms.

¹ Vol. III of the [Mass Casualty Commission](#)’s Final Report offers a good explanation for how these definitions relate and overlap with each other, beginning at page 7

² The Pears Project also calls for the inclusion of rules or guidelines regarding the collection of evidence relating to non-consensual images and other forms of tech-facilitated violence. I would be hesitant to establish prescriptive rules that might end up binding an investigator’s hands in an unhelpful way. However, a ‘best practices’ document on this issue could offer helpful guidance.

Additionally, the University should consider updating some of the Policy's existing definitions as follows:

- **“Consent”**: I am concerned that the Policy's current definition of “consent” appears to incorporate elements of the “honest but mistaken belief” test first articulated by the Supreme Court in [Ewanchuk](#)³. That test was developed in the criminal context, to address the question of how an accused could have a ‘guilty mind’ (*mens rea*) if they mistakenly but wrongly believed the complainant had consented to the act or acts in question. However, within the civil framework (which applies to the University) there is no such thing as an “honest but mistaken belief” in consent. As per the Supreme Court in [Non-Marine-Underwriters](#)⁴, the decision-maker has only two options – that the complainant did or did not consent – and that question is to be decided on a balance of probabilities standard. In practice, once the complainant demonstrates that sexual contact with the respondent occurred, the onus shifts to the respondent to prove consent. In other words, the complainant does not have to prove an *absence* of consent; the onus is on the respondent to prove that consent was, in fact, provided. I may be splitting legal hairs, but it is important for everyone to understand that they are responsible for ensuring that their partner is, in fact, consenting to each specific act. There is no “whoops, I guess I was wrong, I should have been more careful” defense.⁵

- **“Non-adjudicative resolution”**: I am concerned that this term creates the impression that the alternative investigative route is “adjudicative” in the layperson's sense of the word (i.e. that it involves a court or hearing process in which witnesses testify and are examined by lawyers).⁶ In light of my recommendation (found later in this report) that the University stop referring

³ 1999 CanLII 711 (SCC)

⁴ 2000 SCC 24 (CanLII)

⁵ The University of Windsor ran afoul of this issue in 2021: [Doe v. The University of Windsor](#).

⁶ This confusion even arose in my office, when I asked an Associate to research the “non-adjudicative” processes used by other universities and she understood this to mean ‘investigations that ended in findings without an oral hearing.’

student respondents for hearings under the *Student Code of Conduct*, the University should revisit this term. Possible alternatives “alternative resolution” and “alternative-dispute resolution”. The fact that this pathway does not involve an investigation or any findings (and is thus “non-adjudicative”) could still be spelled out in the definition itself.

Statement of Commitment

Overall, this section lays out a strong, inclusive statement.

In keeping with the Truth and Reconciliation Commission’s [Calls to Action](#) and recommendations made in [Reclaiming Power and Place](#), it would be appropriate in section 6 to explicitly recognize that indigenous communities, and particularly women and girls, are disproportionately affected by sexual violence in Canada.

Courts have repeatedly emphasized that there is no “common” or “standard” way for survivors of sexual violence to behave in the aftermath of an assault.⁷ However, rape myths about how “real” victims should or would act remain prevalent. It would be helpful to acknowledge this reality in section 8.

Section 13 references a “companion guide” that is available to provide students with information about the supports available to them. A link to this guide should be embedded in the policy itself.

Reporting

The University uses a centralized reporting system, run through the Centre, to manage access to the investigative and non-adjudicative procedures set out in the Policy. I can see many advantages to this model, including that it allows the Center to foster consistency in the management of disclosures and reports, to build community

⁷ See [R v. A.R.D.](#), 2018 SCC 6 at para. 2

awareness about where to turn in the event someone experiences sexual violence, and to facilitate training and knowledge-sharing. It also provides an opportunity to embed support services with the intake system.

The downside of this model is that it establishes a single point of entry to the system. If an individual is uncomfortable or reluctant to engage with the Centre for any reason, there is no other way for them to make a Report. For this reason, the creation of an arms-length reporting platform is an interesting one. However, it also gives rise to questions about potential complications (e.g. who screens these reports? Who communicates with the complainant if not the Center?).⁸

Non-Adjudicative Resolution Process and Outcomes

The Policy's 'non-adjudicative resolution process' offers complainants who may be reluctant to engage in a full fact-finding investigation an important path forward. However, it is important to recognize that complainants opting for a non-adversarial process will have a range of goals, and that there is no 'one size fits all' process that can meet them all. If the University is interested in helping parties to achieve a wider range of goals and outcomes, it will need to offer complainants more than one process.

At present, the only process being used by the University is 'facilitated negotiation' (my term), during which a facilitator appointed by the University carries offers back and forth between the parties to try to achieve an agreement. The functional goal(s) of this process appears to help complainants negotiate agreements that will minimize future contact or conflict with the individual who harmed. Although the Policy nods to the possibility of a complainant obtaining an apology (discussed further below), the University does not currently offer any restorative processes designed to help the parties communicate or transform their understanding of what occurred/how it impacted others.

⁸ The Pears Report suggests using [Rees](#). I have no experience with this product. In addition to the questions highlighted about, concerns about privacy would also need to be addressed.

Most post-secondary Institutions in Ontario incorporate some form of informal resolution process into their sexual violence policies. However, many are opaque about how they function. For example, the University of Guelph's [policy](#) simply states that Alternative Resolution is "an opportunity for the parties to resolve a complaint with the assistance of a trained facilitator." I presume this would involve facilitated negotiation, similar to the model currently used by the University of Toronto.

A few Institutions appear to offer (or at least aspire to offer) a wider variety of approaches. For example, the [University of Ottawa's policy](#) provides for students to be given "information about informal methods available or any other existing possibilities to facilitate a resolution. An informal resolution may include voluntary facilitation/mediation, education, restorative justice or other similar methods."

More ambitiously, [TMU's policy](#) provides (at Part 3(g)) that "alternative resolution may also include restorative or transformative justice approaches, including processes such as facilitated discussions, community conferencing, or circle processes. During such processes, those who have caused harm and various stakeholders will actively engage in understanding the harm that was caused and its impact and hold those who have caused harm accountable and responsible not only for their past actions, but for shaping the future."

I do not have any information about the work being done on the ground under either the Ottawa or TMU policy, or the experiences of the parties who access these policies. I highlight them here simply because they offer more expansive visions for what alternative resolution processes can involve. By offering the parties a variety of options, there is a greater likelihood of achieving a resolution tailored to their needs and goals.

The "facilitated negotiation" model currently being used by the University has many advantages: the parties can engage with the process at times convenient to them and without having to accommodate the other party's schedule; they are given time to reflect on each proposals (and consult their support people) before responding; they are given physical and temporal distance from one another, which offers psychological safety. However, this model can also have limitations: because the parties are not asked to

actively engage with the process at the same time, there are limited opportunities for effective communication between them and thus limited opportunities to repair the harm that occurred between them. The lack of clear timelines or structure can also result in the process dragging on longer than necessary, which in itself can cause harm (as illustrated by one of the anonymized cases I reviewed).

If the University is interested in offering parties opportunities to repair harm and/or restore relationships, it should consider offering variations to its current facilitated negotiations model. Some parties, for example, may benefit from the option of a more structured mediation process, attended by both parties on the same day. This would not require them to have direct contact or be in the same room, but a process that engages both parties at the same time would be more conducive to facilitated dialogue and same-day resolution. I can see this working particularly well for a complainant who wants a no-contact order with someone who is a member of the same small community and the logistics are complicated to sort out. In rare cases, the parties may even opt for and benefit from face-to-face conversation at the end of mediation.⁹ In my experience, this is the most likely time for a respondent to offer a genuine, unprompted apology for their actions and/or the harm caused.

Other parties may benefit from access to a true restorative process (which are not easy and require significant work/preparation).¹⁰ Broadening the approaches on offer would offer the University another opportunity to engage with indigenous communities in Toronto and incorporate culturally meaningful models or practices centered around the concepts of reconciliation and repairing harm.

If the University opts to expand the types of alternative resolution models on offer, it will need to make the different options (and the differences between them) clear. Once the

⁹ Consider amending s. 89(b) of the process, to make it clear that face to face meetings are not required but also not prohibited

¹⁰ A word of caution: In my experience, restorative justice processes are poorly understood. They often sound appealing to survivors – I think because survivors believe RJ will offer an “easy” path to an apology – but in reality require a level of planning and voluntary engagement from both parties that is challenging to achieve. RJ processes that are attempted ‘casually’, without proper planning and structure, can easily exacerbate underlying harms.

parties opt to pursue alternative resolution generally, the facilitator's first task could be to explore the models with each party and help them decide on which approach it likely to work best for them in the circumstances. The Centre could also support this work. Obviously, this would require training for all involved.

Regardless of whether the University decides to start facilitating restorative processes under the umbrella of alternative resolution, I would recommend it remove the word "apology" from section 88 of the Policy and from the relevant section of the Student Guide. Facilitated negotiation is not a process that lends itself well to apologies. In my experience, apologies are only meaningful to survivors when they are offered willingly and with genuine remorse or contrition. When an apology is extracted through negotiation, it typically lacks substance and sincerity. Often, these half-hearted apologies exacerbate a complainant's underlying feelings of anger, invisibility and/or worthlessness. Removing the term "apology" from the policy would in no way prevent a respondent from offering a genuine apology. It would, however, help manage a complainant's expectations about what the process is likely to achieve.

Finally, it is important to emphasize that all the alternative resolution processes discussed above are voluntary, from beginning to end, and that voluntariness is an essential element to their success. I thus recommend amending s. 90 to make it clear that either party can withdraw from an alternative process at any time prior to resolution. If a facilitated negotiation becomes protracted, one or both parties can elect to withdraw and opt for a formal investigation instead.

Timelines

None of the investigative steps involved in the formal investigation process set out in Part D are governed by timelines. There are good reasons for this: every investigation is unique and, given the numerous variables that can impact timing, it is unwise to tie an investigator's hands with rigid deadlines. On the other hand, without timelines, it is difficult for the parties to manage their expectations about the process (and what it will require of

them). It can also make it challenging for investigators to move the process forward at a reasonable pace.

Ultimately, a balance must be struck. The process needs to be flexible enough to accommodate the parties' mental and physical health needs and academic commitments, but should also offer general timelines to help the parties plan and to help minimize the stress and anxiety attendant to an investigation. For some individuals (both complainants and respondents), anxiety can trigger avoidance and, without structure, result in lengthy delays that become challenging for all involved.

I recommend the University consider adding timelines to sections 71 and 72 of the Policy, to afford the parties greater clarity about the process from the outset and to help ensure that investigations proceed at a reasonable pace. By establishing a standard timeframe for responses (I would suggest 4-6 weeks), but vesting the investigator with discretion to grant extensions where appropriate, the Policy will balance the competing interests at play. I note that, while institutions have traditionally been reluctant to incorporate timelines into sexual violence policies, a number of universities have adopted them in recent years (see, for example, [UBC's policy](#) at s. 2).

I would not recommend adding timelines in relation to the other steps contemplated in Part D, as those steps are dependent on the cooperation/availability of witnesses and others who are external to the process.

Decision-Making

The University's process of conducting oral hearings for student respondents under the *Code of Student Conduct* is unique among Ontario's post-secondary institutions. At most other institutions in the province,¹¹ a final decision about whether a student has committed an act of sexual violence contrary to the applicable policy is made without any form of oral hearing.

¹¹ [Carlton](#) also conducts oral hearings.

Currently, for student respondents, the Policy requires the University to follow two separate, lengthy processes before making a finding of misconduct: an investigation and a hearing. This means that, at the end of a robust investigation, the case is handed from investigator to prosecutor, and the process essentially starts anew. I see numerous downsides to this approach.

First, it exposes the complainant to the unnecessary harm of having to repeat their allegations to numerous fact-finders. Currently, after reporting their allegations to the Centre, cooperating with the investigator (which, at a minimum, involves preparing and approving a written statement and participating in an interview), and having their allegations substantiated, a complainant will still be asked to testify and submit to cross-examination at a hearing before a finding of misconduct is made. In my view, this is an unnecessary step in all but the most serious of cases (and, arguably, isn't necessary in the most serious cases either).

Second, the two-pronged process can leave the University in a difficult position if an investigator substantiates a complainant's allegations but the complainant later declines to participate in a hearing (which could happen for many reasons, including not wanting to repeat their allegations yet again). This could result in a situation where the University has an investigative report that substantiates serious allegations of sexual violence but, without the complainant's cooperation, does not have the evidence it needs to move forward to a hearing.

Third, in some circumstances, referrals under the Code can cause unnecessary harm to respondents as well complainants. In less serious cases, where wrong-doing has occurred but the University seeks sanctions like education + counselling, the additional procedural step of a referral can unnecessarily prolong the process and cause the respondent needless additional stress.

I recommend the University amend s. 79 to empower the Vice-Provost, Students (or designate) to determine whether a breach of the Policy has occurred and to impose

appropriate sanctions at the end of an Investigation. Procedural fairness does not require a respondent to be afforded an oral hearing (as reflected by the fact that very few universities conduct them). In my opinion, this is true regardless of what sanction is sought by the University, up to and including expulsion. However, if the University wishes to implement this change cautiously, it could start by limiting the Vice-Provost's decision-making powers to sanctions short of suspension. For the most serious cases, in which the University seeks a suspension or expulsion, an oral hearing could still be conducted. The issue of whether to grant the Vice-Provost decision-making powers in all cases could be revisited in three years' time.

Concluding Thoughts

Overall, the University's Policy is well thought-out and suggests a careful balancing of the different interests and legal considerations at play. While there is room for improvement, particularly around alternative resolution and decision-making, it is apparent that the University takes its obligations to protect its community and combat sexual violence seriously.

I would be pleased to discuss any of my recommendations or provide more information as required.



UNIVERSITY OF TORONTO

University of Toronto
Governing Council

Policy on Sexual Violence and Sexual Harassment

Approved December 15, 2022
Effective January 1, 2023

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:

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*

Policy on Sexual Violence and Sexual Harassment

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DRAFT

DEFINITIONS AND INTERPRETATION

Where the singular is used in this Policy, it should be interpreted as applying to the plural, as applicable.

Commented [A1]: New sentence.

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.
<http://www.svpscentre.utoronto.ca/>

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 voluntary, clear, 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, in the absence of consent that was voluntary, clear, positive, active, and ongoing, that the Complainant consented to the activity that forms the subject matter of the complaint in a Report, 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.~~

Commented [A2]: Updated in response to community input and external legal expert's advice.

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.

Facilitated Resolution Process: As described in Section VIII F, this term refers to a process that attempts to resolve the matters alleged in a Report through a facilitated process that is agreed to by both the Complainant and the Respondent.

Commented [A3]: Proposed new term for Non-Adjudicative Resolution. Responsive to external legal expert's advice.

~~**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, or sexual orientation that is known or ought reasonably to be known to be unwelcome.~~

Commented [A4]: Incorporated into "Sexual Violence" definition.

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

Intimate Partner Violence (IPV): An act within an intimate relationship, whether the act is physical or psychological in nature, that causes physical, sexual or psychological harm. This can include acts of physical aggression, assault, sexual assault, sexual coercion, psychological abuse and controlling behaviours. This definition covers violence by both current and former intimate partners.

Commented [A5]: New definition in response to community input and external legal expert's advice.

Member(s) of the University Community: Includes students, learners, faculty, librarians, post-doctoral fellows, postgraduate medical residents, clinical 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.

Commented [A6]: See new term above.

Procedural Fairness: Procedural Fairness is an obligation owed to a Respondent of a Report. It requires that steps be taken to -make sure that before someone faces negative consequences (e.g., discipline) because of a Report against them, they understand sufficient details about the allegations to be able to provide their response, and that they have an opportunity to provide their response to the Report should they wish. Sufficient details generally include the identity of the individual who has made the Report and information about the alleged Incident(s) of Sexual Violence. Procedural Fairness generally also includes:

- the right to an impartial decision maker;
- the opportunity to have the parties' views considered by the people making the decision; and
- the right to a decision and a rationale for that decision.

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.

Reprisal: Any action – including through professional, social or technological means – that imposes negative consequences against a Complainant to penalize them for disclosing or reporting Sexual Violence, or against any participant, such as a witness, to penalize them for sharing information with the University about an Incident of Sexual Violence and/or their participation in any stage of any process initiated by a Report. A threat of an act of Reprisal will be considered an act of Reprisal. The term "Reprisal" can be used interchangeably with the term "retaliation".

Commented [A7]: New definition in response to community input.

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.~~

Commented [A8]: Moved below.

~~**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 Gender-based Violence, ~~cyber sexual violence~~, and sexual exploitation. Sexual Violence can occur in any format including in writing, in person, by voice, and/or through the use of technology ("Tech-facilitated Sexual Violence"). ~~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.~~~~

~~**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 [A9]: Removed "gender" as it is covered under "gender identity" and "gender expression"

~~**Gender-based Violence:** Violence committed, threatened, or attempted without Consent, targeting an individual because of their sex, sexual orientation, gender identity, or gender expression. It includes assault, sexual assault, harassment, stalking, indecent exposure, abuse through the use of technology (see definition of Tech-facilitated Sexual Violence below), and more.~~

Commented [A10]: New definition in response to community input and external legal expert's advice.

~~**Gender Expression:** How a person publicly presents their gender. This can include dress (clothing), hair, grooming, body language/mannerisms, and voice. A person's chosen name and pronoun are also common ways of expressing gender.~~

Commented [A11]: New definition in response to community input.

Commented [A12]: Adapted from the OHRC definition

~~**Gender Identity:** A person's internal and individual experience of gender. It is their sense of being a woman, a man, both, neither, or anywhere along the gender spectrum. A person's gender identity may or may not correspond to the sex assigned to them at birth.~~

Commented [A13]: New definition in response to community input.

Commented [A14]: Adapted from the OHRC definition

~~**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~~

Commented [A15]: Moved from main part of definitions section

sexual touching to forced ~~intercourse~~ penetration; and a Sexual Assault can involve situations where sexual activity is obtained by someone abusing a position of trust, power or authority.

Commented [A16]: Replaced “intercourse” with “penetration” in response to community input.

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 ~~R~~reprisal ~~or a threat of reprisal~~ for ~~the rejection of~~ rejecting a sexual solicitation or advance, where the ~~R~~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 [A17]: Moved from main part of sexual harassment definition

Tech-facilitated Sexual Violence: Acts of Sexual Violence that are conducted through the use of technology, including but not limited to any of the following:

Commented [A18]: This is now encompassed in the final sentence of the definition of "sexual violence" and the new definition of "Tech-facilitated sexual violence".

- Cyber stalking
- Cyber voyeurism
- Sextortion
- Knowingly creating, publishing, distributing, transmitting, selling, making available or advertising an intimate image of a person or their likeness 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 is a visual recording of a person or their likeness made by any means, including real, AI-generated, or digitally altered photographs or video recordings, in which the person is in a state of nudity and/or engaged in sexual activity.

Commented [A19]: New definition in response to community unput and external legal expert’s advice.

STATEMENT OF COMMITMENTS AND ACKNOWLEDGEMENTS

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~~ members of a society.
3. The University recognizes that individuals who have experienced Sexual Violence experience a range of ~~effects~~ impacts, including trauma, that can profoundly affect their lives.
4. The University is committed to responding to and addressing ~~incidents~~ Incidents and ~~complaints~~ Reports of Sexual Violence involving ~~its students, staff and faculty~~ Members of the University Community, and to ensuring that those ~~Members~~ members of the University Community who are affected by Sexual Violence receive support.
5. In implementing this Policy, the University is committed to providing a trauma-informed approach and process.
6. The University recognizes that Sexual Violence can occur between individuals regardless of sex, sexual orientation, ~~gender~~ gender identity or ~~gender~~ expression, or relationship status.
7. The University recognizes the intersection of Sexual Violence with ~~discrimination and harassment~~ other forms of violence and harm, including ~~but not limited to discrimination and harassment on~~ the grounds set out in the Ontario Human Rights Code. The University recognizes that individuals from ~~historically~~ marginalized communities ~~may be~~ are often disproportionately affected by Sexual ~~Harassment and Sexual~~ Violence.
8. Sexual Violence can be committed against any person and is an issue that requires an inclusive response. The University recognizes that Sexual Violence intersects with other forms of violence and harm based on identity, and in particular, that Sexual Violence is overwhelmingly committed against women, and trans and nonbinary people, and especially those who experience the intersection of multiple identities, such as, but not limited to, those who are Indigenous women, women with disabilities, people with lived experiences of disability, and racialized women. Additionally, the University recognizes that those whose gender identity or gender expression does not conform to historical gender norms, as well as those who are marginalized on the basis of sexual orientation, 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

Commented [A20]: Revised title in response to community input.

Commented [A21]: Change made in response to community input.

Commented [A22]: Responsive to community consultation

Commented [A23]: Moved statement up from former paragraph 8 to indicate importance.

Commented [A24R23]: Added text made in response to community input and external legal expert’s advice.

Commented [A25]: New paragraph in response to community input.

Commented [A26]: Former paragraph 5.

Commented [A27]: Removed "gender" as it is covered in "gender identity or gender expression".

Commented [A28]: Updated to include SV only, not its component parts which include SH as well as gender-based harassment etc.

Commented [A29]: Former paragraph 6. Changes in response to community input

Commented [A30]: Former paragraph 7. New text in response to community input and external legal expert’s advice.

Commented [A31]: This statement was moved up.

for under this *Policy* are completed as expediently as possible. The University acknowledges, however, that time frames will vary depending on the circumstances involved, and that flexibility is required in a trauma-informed approach.

10. The University is committed to providing accommodations where required to support the parties to a Report in continuing to participate in the University community as appropriate in the circumstances.

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

8. 12. The University recognizes that power dynamics are inherent in institutions of higher learning. Power dynamics may impact the ability of a party with inherently less power to decline sexual advances from a party with greater power. The University ~~and~~ is committed to appropriately accounting for these dynamics in the processes set out in this *Policy*.

13. The University will not tolerate ~~R~~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.

14. The University is committed to making available programs and resources to educate its community on the prevention of and response to Sexual Violence.

I. APPLICATION AND SCOPE

15. 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~~ An online navigation tool is available to provide more information about this *Policy* to ~~students, staff, and faculty~~ Members of the University Community.

16. Notwithstanding that the definition of Complainant under this *Policy* requires being a Member of the University Community, if a former Member of the University Community wishes to make allegation(s) of an Incident of Sexual Violence that occurred while both they and the Respondent were Members of the University Community, they should contact the Centre to discuss any options the University may have in the circumstances to review the allegation(s), which may include proceeding under this *Policy*.

17. This *Policy* relies on a centralized system of Reporting, investigation and decision-making for ~~complaints~~ Reports 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 ~~R~~reprisal, and to ensure coordination and consistency across all academic divisions, campuses, and ~~centralized~~ institutional services.

18. 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,

Commented [A32]: New text in response to community input.

Commented [A33]: New paragraph in response to community input.

Commented [A34]: Former paragraph 10.

Commented [A35]: I don't love this phrase - I don't know if "inherently" is the right word. Isn't power related to tangible factors like ability to mark a student's work, or supervisory - that's not inherent, it's circumstantial.

Commented [A36R35]: Perhaps we should echo this language from the COI Guideline on Close personal relationships: 2. Power Dynamics
Power dynamics are inherent to institutions of higher learning, particularly with respect to interactions between faculty members or librarians and students, administrative staff, and peers. These power dynamics may impact the ability of a party with inherently less power to decline advances from a party with greater power. The absence of voluntary consent for a sexual or intimate act will result in the act amounting to Sexual Violence as defined in the University's *Policy on Sexual Violence and Sexual Harassment*.

Commented [A37R35]: Agree - the language is based on the COI Guideline

Commented [A38]: Former paragraph 11. Added text in response to community input.

Commented [A39]: Former paragraph 12.

Commented [A40]: Moved this statement down to reflect priority in relation to other statements. Was previous paragraph 3.

Commented [A41]: Former paragraph 13. Changed term for guide and expanded to staff and faculty. To link to guides once they are live, as per external legal expert's advice.

Commented [A42]: New paragraph in response to community input. Reflects current practice.

Commented [A43]: Former paragraph 14.

Commented [A44]: Former paragraph 15.

regardless of whether the event occurred on campus, off campus, or ~~using social media or other electronic media facilitated by technology. Support will be made available under this Policy to Complainants regardless of whether the Respondent is a Member of the University Community.~~

Commented [A45]: Created separate paragraph below in paragraph 19.

19. ~~Support will be made available under this Policy to individuals who are Members of the University Community who disclose an Incident of Sexual Violence Complainants regardless of whether the Sexual Violence Respondent was committed by is a Member of the University Community.~~

Commented [A46]: Moved this sentence from former paragraph 15 and created new paragraph.

20. ~~Only acts of Intimate Partner Violence that include physical assault of the Complainant and/or acts that are sexual in nature that otherwise amount to Sexual Violence, shall be within the scope of this Policy. For information about support in the context of Intimate Partner Violence, please see paragraph 37.~~

Commented [A47]: New paragraph in response to community input.

~~IV.~~ II. CONFIDENTIALITY AND PRIVACY

Commented [A48]: Moved entire section up up to signal its importance. Responsive to community input.

21. 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*.

Commented [A49]: Former paragraph 29.

22. 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 support, accommodation, interim conditions and interim measures, and the investigation and decision-making processes; and taking corrective action resulting from those processes.

Commented [A50]: Former paragraph 30. Added text in response to community input.

23. ~~The University will maintain a protocol on record-keeping related to Sexual Violence Reports. The Office of Safety and High Risk will maintain a confidential database of Reports received.~~

Commented [A51]: Former paragraph 50.

24. 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 [A52]: Former paragraph 31.

25. 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 [A53]: Former paragraph 32. New text is updates.

- a) An individual is at risk of imminent and serious harm to themselves or others;
- b) A Member 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, obligations to report to a Children's Aid Society, or obligations related to occupational health and safety~~ under the *Occupational Health and Safety Act*, ~~or to human rights legislation~~ the protection of rights under the *Human Rights Code*);
- d) ~~An affiliation agreement requires sharing~~ 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 ~~a~~Affiliation ~~a~~Agreement ~~protocols, and/or the protocols of a professional regulatory body would~~may require the sharing of ~~allegations, investigation results and/or~~ ~~of~~ corrective action that has ~~or will follow~~ ~~been or will be taken~~:-

- ~~e~~e) ~~Information must be disclosed to a professional regulatory body. -In such cases, information regarding allegations, investigation results and/or corrective action may be disclosed~~:-
- ~~e~~f) ~~Disclosure or Report is made to Campus Safety of an Incident of Sexual Violence that potentially violates the Criminal Code of Canada, which, notwithstanding paragraph 27, may require sharing information with the applicable municipal police force; or~~
- ~~f~~g) ~~Disclosure is required in the context of a court or tribunal hearing.~~

26. ~~The University recognizes the harm caused by the creation and posting of intimate images without consent, and will implement protocols for the confidential retention and destruction of such images when shared with the University for the purposes of this Policy.~~

Commented [A54]: New text in response to community input.

Commented [A55]: New paragraph in response to community input.

III. PRINCIPLES RESPECTING PROCESS

27. ~~A person who has made a Disclosure and/or a Report of Sexual Violence has autonomy in decision-making decisions regarding, 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 67, 68, 69 and 70.~~

Commented [A56]: Former paragraph 21.

28. ~~In the event that both a Reporting process and a criminal process are occurring regarding the same Incident of Sexual Violence, the University may decide to temporarily pause a process under this Policy. In making this decision, it will seek and consider the views of the Complainant and Respondent. In the event the University decides to temporarily pause the process, it will revisit this decision as circumstances change and inform the Complainant and Respondent if and when a decision is made to end the pause. Similarly, the University may also decide to pause a process under this Policy where a regulatory process is taking place regarding the same Incident of Sexual Violence.~~

Commented [A57]: New paragraph in response to community input.

29. ~~The University is committed to the provision of a fair process for all parties and one that respects due process and Procedural Fairness.~~

Commented [A58]: Former paragraph 22.

30. ~~The University is committed to reducing barriers to Disclosure and Reporting of incidents of Sexual Violence. In that regard,~~

Commented [A59]: Content moved from former paragraph 23.

- ~~a~~) Complainants will not be asked to repeat their accounts more than necessary for the implementation of this Policy; and
- ~~b~~) Complainants who ~~in good faith~~ make a Disclosure or Report about Sexual Violence will not be subject to discipline or sanction ~~for violations under~~ the Code of Student Conduct or ~~any~~ other University policy ~~for drug or alcohol use at the time of the alleged Sexual Violence. - relating to drug or alcohol use at the time the alleged Sexual Violence occurred.~~

Commented [A60]: Removed "in good faith" in response to community input.

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

Commented [A61]: Former paragraph 24.

~~32. The University will provide regular updates to the Complainant and Respondent about the status of any process under the Policy initiated following a Report.~~

Commented [A62]: Moved from “University Response to a Report”. Former paragraph 60. d).

~~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 [A63]: Moved to new section “Safety, Reprisals, and Breaches of Interim Conditions Interim Measures”.

~~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.~~

Commented [A64]: Moved to new section “Safety, Reprisals, Interim Conditions and Interim Measures”.

33. The University will respond to Disclosures and/or Reports of Sexual Violence fairly and expeditiously and will strive to conclude a process, including decision-making where applicable, within no more than 12 months from the date a completed Report is received by the University.

Commented [A65]: Former paragraph 28. New text in response to community input.

34. The Office of Safety and High Risk may delegate any of its decision-making and/or processes under this Policy to another appropriate office, including without limitation, the Workplace Investigations Office, the Office of the Vice-Provost Faculty & Academic Life, the Office of the Vice-President People, Strategy, Equity & Culture, or the Office of the Vice-Provost Students.

Commented [A66]: New text in response to community input.

IV. EDUCATION, SUPPORT, AND RESOURCES

Commented [A67]: Moved entire section down so that we could move “Confidentiality and Privacy” up.

35. 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 67, 68, 69 and 70. ~~45, 47, and 48.~~

Commented [A68]: Former paragraph 16.

36. The University has established the Centre with a tri-campus presence. The Centre has a mandate to conduct intake, accept Disclosures 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 [A69]: Updated paragraph numbers.

Commented [A70]: Former paragraph 17.

Commented [A71]: Former paragraph 17.

37. Members of the University Community experiencing Intimate Partner Violence may seek support from the University even if the Intimate Partner Violence does not amount to Sexual Violence or otherwise fall within the scope of this Policy. The complexities of Intimate Partner Violence often require multiple forms of support including University safety resources along

with external community supports. The Centre can provide support in identifying and accessing resources that may apply in a specific situation.

38. 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.

Commented [A72]: Former paragraph 18.

39. 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 [A73]: Former paragraph 19.

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

Commented [A74]: Former paragraph 20.

41. While support to Respondents is not provided through the Centre, the Centre has a mandate to advise on appropriate educational initiatives related to Respondents, and to provide education to Respondents, ensuring there is no conflict with support being provided to a Complainant and in keeping with the commitment to confidentiality under this *Policy*.

Commented [A75]: New paragraph in response to community input.

42. The University will provide mandatory training, including about trauma-informed practices, to all individuals who are involved in implementing the *Policy* and related processes.

Commented [A76]: New paragraph in response to community input.

V. SAFETY, REPRISALS, INTERIM CONDITIONS AND INTERIM MEASURES

Commented [A77]: New section in response to community input.

43. In cases where the Complainant has safety concerns, the Centre is available to facilitate safety planning and/or direct the Complainant to appropriate resources and services within and outside the University. In addition, where any participant in a process under this *Policy* has safety concerns, they may raise them with the Office of Safety and High Risk, which will coordinate the provision of available safety planning and/or direct them to appropriate resources and services within and outside the University.

Commented [A78]: New text in response to community input.

44. 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.

Commented [A79]: New paragraphs in response to community input.

Commented [A80]: Former paragraph 27.

45. The University will not tolerate any ~~retaliation~~ ~~Reprisal~~, ~~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.

Commented [A81]: Former paragraph 25.

46. 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 provide~~ measures of accommodation or impose interim conditions or interim measures appropriate in

Commented [A82]: Former paragraph 26.

the circumstances to minimize opportunities for Reprisals. Threats or acts of retaliation during a process under the Policy will be treated as new Incidents of Sexual Violence.

Commented [A83]: Moved below.

47. e) 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, may include the following:

Commented [A84]: Content taken from former paragraph 60.

- 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;
- Examples of such measures for employees include: making changes that are not disciplinary but precautionary to avoid contact between parties.

Commented [A85]: Deleted text moved to paragraph 85.

48. The University may impose, and if applicable, vary, interim conditions and/or interim measures any time after a Report is made until the end of a process under this Policy. If the same or similar measures are to be imposed after the process has concluded, they will be imposed as (part of) the outcome of the matter and in accordance with any applicable University policy.

Commented [A86]: New text in response to community input.

49. If a Complainant is of the view that a Reprisal or breach of an interim condition or interim measure has or may have taken place, they should advise their support person at the Centre and/or the Office of Safety and High Risk at the earliest opportunity. Any other participant experiencing such an act should bring it to the attention of the Centre and/or the Office of Safety and High Risk at the earliest opportunity.

Commented [A87]: New text in response to community input.

~~45. Threats or acts of Reprisal during a process under the Policy will be treated as new Incidents of Sexual Violence.~~

Commented [A88]: Moved to paragraph 47.

50. Reprisals or breaches of interim conditions or interim measures will be assessed by the Office of Safety and High Risk in a parallel process to that set out in paragraph 85.

51. If the Office of Safety and High Risk makes the determination that the alleged act does not appear to constitute a Reprisal or breach of interim conditions or interim measures, the individual who made the allegation may seek a review of that decision by making a request in writing within 30 calendar days of the decision to the Vice-President and Provost or designate or to the Vice-President, People Strategy, Equity & Culture or designate, who will review the matter and advise the individual of their decision in writing within 30 calendar days.

Commented [A89]: New text in response to community input.

52. If the Office of Safety and High Risk makes the determination that the alleged act(s) could constitute a Reprisal or breach of interim conditions or interim measures, the allegations may be handled in any of the following ways:

Commented [A90]: New text in response to community input.

•a) Allegations of Reprisals by a Respondent during a process under this Policy will be treated as new Incidents of Sexual Violence and may be included in an investigation under this Policy.

b) Allegations of breaches of interim conditions or interim measures during a process under this Policy may be treated as new Incidents of Sexual Violence and may be included in an

investigation under this Policy.

c) Allegations of Reprisals or breaches of interim conditions or interim measures that are not included in an investigation under this Policy will be assessed by the Office of Safety and High Risk, which will make a factual determination.

d) A breach of an interim condition or interim measure may meet the definition of Reprisal and be treated as such.

53. If a determination is made that a Reprisal or breach of interim conditions or interim measures occurred, the following apply:

a) Reprisals by any participant in a process under this Policy may be treated as a disciplinary matter pursuant to the applicable process depending on their relationship with the University.

b) Reprisals or breaches of interim conditions or interim measures may result in the University reviewing the existing interim conditions or interim measures and the University may amend or impose new interim conditions or interim measures.

49. ~~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.~~

54. In the event that the University temporarily pauses a process under this Policy, interim conditions or interim measures may be imposed, amended, and continued despite the pause.

Commented [A91]: New text in response to community input.

Commented [A92]: Former paragraph 27.

Commented [A93]: New paragraph in response to community input.

VI. ACCESSING THE POLICY: DISCLOSURE AND REPORTING

55. 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.~~

56. 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.

57. 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.

58. 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

Commented [A94]: Former paragraph 33.

Commented [A95]: This is already stated above.

Commented [A96]: Former paragraph 34.

Commented [A97]: Former paragraph 35.

Commented [A98]: Former paragraph 36.

Complainant will be directed to make a Report to Campus Safety.

59. 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.

Commented [A99]: Former paragraph 37.

60. 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.

Commented [A100]: Former paragraph 38.

~~VI.~~ VII. DISCLOSURE

61. 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.

Commented [A101]: Former paragraph 39.

62. 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 [A102]: Former paragraph 40.

63. 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.

Commented [A103]: Former paragraph 41.

64. 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.

Commented [A104]: Former paragraph 42.

65. 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.

Commented [A105]: Former paragraph 43.

66. 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.

Commented [A106]: Former paragraph 44.

67. 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.

Commented [A107]: Former paragraph 45.

68. 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*.
69. 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.
70. 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 [A108]: Former paragraph 46.

Commented [A109]: Former paragraph 47.

Commented [A110]: Former paragraph 48.

VII. VIII. REPORTING

A. REPORTING PROCESS

71. To initiate a Report under this Policy 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.~~
72. In case of emergency, an individual who has experienced Sexual Violence can contact be-Reported to 911 or Campus Safety, the latter of which is in turn required to inform the Centre as well as municipal police services. In the event 911 has been contacted due to an emergency, a Report to the Centre can also be made at a later date following the incident.
73. Reporting can be initiated in person, virtually, by phone, or online. A Complainant can also request that the Centre staff file a Report on their behalf to reduce the number of times they have to tell their story. ~~The Office of Safety and High Risk will maintain a confidential database of Reports received.~~
74. A Report under this Policy will include at least the following information: the name and contact information of the individual(s) making the Report (the Complainant); the name(s), if known, and/or identifying information of the individual(s) against whom the Report is being made (the Respondent); and a summary of the incident(s) alleged to constitute Sexual Violence including to the extent possible the date(s), time(s) and location(s) of the incident(s).
75. The University has the jurisdiction to investigate Reports of Sexual Violence made against a Member of the University Community under this *Policy*.
76. 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.
77. A Complainant is not precluded from reporting an Incident of Sexual Violence to municipal police services if they have filed a Report about Reported the Incident of Sexual Violence to the University under this Policy. A Complainant is not precluded from Reporting filing a Report about an Incident of Sexual Violence with to the University if they have reported the incident to municipal police services. A Complainant may choose to rReport to one or the other, to neither or to both.

Commented [A111]: Former paragraph 49.

Commented [A112]: Moved to new paragraph 72.

Commented [A113]: Former paragraph 49.

Commented [A114]: Former paragraph 50. New text in response to community input.

Commented [A115]: Deleted text moved to para 23.

Commented [A116]: New paragraph in response to Bill 166 and community input.

Commented [A117]: Former paragraph 51.

Commented [A118]: Former paragraph 52.

Commented [A119]: Former paragraph 53.

78. Once a Complainant has made a Report of an Incident of Sexual Violence under this Policy, 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.
79. A Complainant making a Report may, at the time of submitting their Report, indicate if they have a preference for an investigation or a Facilitated Resolution Process.
80. At the time of the notification of a Report, the Respondent will be made aware of the supports that are available to them.
81. 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*.
82. 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

83. 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.
84. 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.
85. Some of the options that the University may offer to the be made available to the Complainant following a Report include, but are not limited to the following:
- 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/>;
 - The University may offer from the University to, where appropriate, communicate with the Respondent to inform them that their conduct toward the Complainant is unwelcome and to note the no-retaliation- Reprisal provisions of this *Policy*;
 - Safety planning;
 - availability of Academic accommodations, including for example:
 - For students: exam or assignment deferral, class and/or schedule changes, emergency bursaries, and/or housing changes, and

Commented [A120]: Former paragraph 54. Updated text to reflect current process.

Commented [A121]: As noted above - I find this confusing. Do we have to mention OSHR?

Commented [A122R121]: Resolved

Commented [A123]: New paragraph to reflect current process.

Commented [A124]: Former paragraph 55.

Commented [A125]: Former paragraph 56.

Commented [A126]: Former paragraph 57.

Commented [A127]: Former paragraph 58.

Commented [A128]: Former paragraph 59.

Commented [A129]: Former paragraph 60.

Commented [A130]: New text in response to community input.

Commented [A131]: New text in response to community input.

- ~~For employees: changes to work hours or location that are not disciplinary but precautionary to avoid contact between parties.~~

a) ~~interim conditions, and/or 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, as follows:~~

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;~~

~~Examples of such measures for employees include: making changes that are not disciplinary but precautionary to avoid contact between parties.~~

~~The University may impose interim conditions and interim measures Mo any time after a Report is made until the end of a . If the same or similar measures are to be imposed after, they will be imposed as (part of) the outcome of the matter and in accordance with any applicable University policy.~~

b) ~~regular updates about the investigation and decision-making processes that may occur.~~

86. 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~~

87. While the Centre conducts intakes and receives Disclosures and ~~initiates~~ Reports, the assessment and investigation processes will be coordinated through the Office of Safety and High Risk.

88. Upon receipt or completion of a written Report, the Centre will send the Report to the Office of Safety and High Risk. Upon receiving a Report, 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 or not to commence a process (i.e., either an investigation or Facilitated Resolution Process) under the Policy ~~commence an investigation.~~

89. A Report under this Policy may also include allegations under other University policies or guidelines. In the event that more than one Policy or process is engaged by the same Report, the University will consolidate the processes to the extent possible.

90. Within 30 calendar days of the Office of Safety and High Risk receiving a completed written Report, it will provide the Complainant with an outline of next steps, and

Commented [A132]: Moved to “Safety, Reprisals, Interim Conditions and Interim Measures” section.

Commented [A133]: New text in response to community input.

Commented [A134]: Deleted because repetitive with paragraph 32.

Commented [A135]: Former paragraph 61.

Commented [A136]: This is now addressed in the new “Safety, Reprisals, Interim Conditions and Interim Measures” section.

Commented [A137]: Made changes to section titles to improve clarity.

Commented [A138]: Former paragraph 62. Changed text to reflect that Case Managers may receive reports,

Commented [A139]: Former paragraph 63. Updated to reflect current process.

Commented [A140]: New paragraph in response to community input.

Commented [A141]: New paragraph in response to community input.

estimated timelines.

91. The Complainant can choose not to request an investigation by the University. The Complainant has the right not to participate, or to cease participating, 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 [A142]: Former paragraph 64. Updated text in response to community input.

92. 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.

Commented [A143]: Former paragraph 65.

93. 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.

Commented [A144]: Former paragraph 66.

94. The University has an existing Protocol to determine, with Affiliated Sites, the appropriate jurisdiction for any complaints involving Sexual Violence and/or harassment-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 [A145]: Former paragraph 67.

95. If the University decides not to investigate or proceed with a Facilitated Resolution Process, it will still make support and services available to Complainants, which may include counselling, access or referrals to medical, legal and other services, and academic and other accommodations.

Commented [A146]: New paragraph in response to community input.

ii. D. APPOINTMENT OF AN INVESTIGATOR- INVESTIGATION

96. Once a determination has been made to commence an investigation, a competent person with the appropriate skills, training, and/or experience, including with respect to conducting trauma-informed investigations, 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.

Commented [A147]: Former paragraph 68. New text in response to community input.

97. The Office of Safety and High Risk will send written notice to the Respondent that an

Commented [A148]: Former paragraph 69.

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

98. 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 ~~Procedural Fairness and due process.~~ The University will strive to complete investigations within 8 months, from the date the investigator is appointed until the date the Complainant and Respondent are notified of the investigation findings.
99. 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.~~
100. The investigator will provide the Complainant with a document setting out the Respondent's response to each of the Complainant's allegations, if the Respondent responded either orally or in writing. ~~written particulars of the response from the Respondent, if received, to the Complainant.~~
101. 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.~~
102. The investigator will provide the Respondent with a document setting out the Complainant's reply, if the Complainant responded either orally or in writing. ~~the written particulars of the reply from the Complainant, if received, to the Respondent.~~
103. The Complainant and Respondent may choose to submit any additional information to the investigator, including the names of any potential witnesses.
104. 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.
105. 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*.
106. The investigator will remind the Complainant, Respondent, and witnesses of the provisions

Commented [A149]: Former paragraph 70.

Commented [A150]: New text in response to community input .

Commented [A151]: Former paragraph 71.

Commented [A152]: Deleted and replaced with paras. 100, 101, 102.

Commented [A153]: Former paragraph 72. New text in response to community input.

Commented [A154]: Former paragraph 73.

Commented [A155]: Former paragraph 74.

Commented [A156]: Former paragraph 75.

Commented [A157]: Former paragraph 76.

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.

107. 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. The investigator does not make findings with respect to whether or not there was a violation of the *Policy* or any other university policy or guideline or law.
108. 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*.
109. Prior to decision-making, the Complainant and Respondent will be invited by the decision-maker or designate to provide their views on the results of the investigation that have been conveyed to them, and input into any next steps that the University may be considering.

Commented [A158]: Former paragraph 77. New text in response to community input.

Commented [A159]: Former paragraph 78.

Commented [A160]: New paragraph in response to community input.

E. DECISION-MAKING AND APPEAL PROCESS

110. In the case of a student Respondent, the investigation report will be reviewed by the Vice-Provost, Students or designate to determine whether the *Policy* has been breached and, if so, the appropriate discipline or sanctions, selected from the list of sanctions available under the *Code of Student Conduct*, with the exception of the recommendation for suspension or expulsion. The Respondent will be notified in writing of the decision and any discipline or sanction imposed. The Respondent may file a written appeal of the Vice-Provost, Students’ decision to the Provost within 14 calendar days of the notification. The Provost may dismiss or allow the appeal in a written decision. If the appeal is allowed, the Provost shall substitute their own decision for that of the Vice-Provost, Students. If the Vice-Provost, Students believes that the *Policy* has been breached and that the appropriate sanctions should include suspension or expulsion, the Vice-Provost, Students shall refer the matter for a hearing under the *Code of Student Conduct*. 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*.
111. 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.
112. 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

Commented [A161]: Former paragraph 79. New text in response to community input and external legal expert’s advice.

Commented [A162]: Former paragraph 80.

Commented [A163]: Former paragraph 81.

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

113. 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:

a) in the case of a Respondent who is a post-graduate medical resident, whether to refer the matter for consideration of remediation, remediation with probation, suspension or dismissal pursuant to the Guidelines for the Assessment of Postgraduate Residents.

Appeals against a decision of the Board of Examiners – Postgraduate may be made to the Faculty of Medicine Appeals Committee as provided for in the Guidelines for Assessment of Postgraduate Residents.

b) in the case of a Respondent who is a post-graduate clinical fellow, determine whether remediation, probation, suspension, or termination is appropriate in accordance with the Guidelines for Educational Responsibilities in Clinical Fellowships. Where applicable, the Provost or designate may also consult with the relevant Affiliated Site, clinical site and/or other employer of the clinical fellow in determining the appropriate outcome.

c) in the case of a Respondent who is a clinical faculty member, determine 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, if eligible, will have access to the grievance process under the Procedures Manual for the Policy for Clinical Faculty. Where applicable, the Provost or designate may also consult with the relevant Affiliated Site in determining the appropriate outcome.

114. 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.~~

115. 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~~110 through 114, the University will decide which process(es) will apply in the circumstances of the particular case.

116. 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.

117. ~~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~~will be made aware of what corrective actions have been taken or will be taken (if any).

Commented [A164]: Former paragraph 82. Updated text.

Commented [A165]: Former paragraph 83.

Commented [A166]: Deleted because there isn't a grievance process for this employee group.

Commented [A167]: Former paragraph 84.

Commented [A168]: Former paragraph 85.

Commented [A169]: Former paragraph 86. New text in response to community input.

~~Complainants will be advised of any corrective action that impacts them directly.~~ Other participants (e.g. witnesses) may ~~also~~ be notified when a process has concluded.

118. Wherever practicable, the University will continue to conclude an ~~i~~nvestigation 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*.

Commented [A170]: Former paragraph 87.

119. The University may proceed with decision-making under this *Policy* even if the Respondent and/or Complainant cease to be a Member of the University Community during a process under this *Policy* and/or did not participate in all or part of a process under this *Policy*.

Commented [A171]: New paragraph in response to community input.

NON-ADJUDICATIVE/PUNITIVE ACCOUNTABILITY/FACILITATED RESOLUTION -PROCESS

~~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.~~

120. The University recognizes that some individuals affected by Sexual Violence may prefer to not have an investigation conducted into their Report. These individuals may prefer a Facilitated Resolution Process.

Commented [A172]: New paragraph in response to community input and external legal expert's advice.

121. A Facilitated Resolution Process is a voluntary structured process between the Complainant and Respondent that is focused on resolution. Such a process takes into account safety, support, and, if appropriate, a Respondent taking accountability for the impact of their conduct without the imposition of disciplinary action against a Respondent.

Commented [A173]: New paragraph in response to community input and the external legal expert's advice.

~~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.~~

Commented [A174]: See paragraphs 122 and 123.

122. The Complainant and Respondent must each agree to participate in the process, and to the structure and terms of a Facilitated Resolution Process.

Commented [A175]: New paragraph in response to community input and the external legal expert's advice.

123. The Facilitated Resolution Process does not require face-to-face contact between the Complainant and Respondent. However, the Complainant and Respondent can agree to meeting face-to-face during the process.

Commented [A176]: New text in response to community input and external legal expert's advice.

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

Commented [A177]: Former paragraph 90.

125. A Complainant may request a Facilitated Resolution Process through the Centre or Office of Safety and High Risk; the Respondent may request a Facilitated Resolution Process through the Office of Safety and High Risk.

126. Upon receipt of a request for a Facilitated Resolution Process, the Office of Safety and High Risk will make an assessment related to safety and risk factors in order to determine whether to offer a Facilitated Resolution Process in the circumstances.
127. If the Office of Safety and High Risk has determined that it will offer a Facilitated Resolution Process, it will contact the Complainant and Respondent to inform them of the purpose and proposed structure of the Facilitated Resolution Process to confirm whether both parties are willing to participate.
128. The Complainant and Respondent will have 30 calendar days from the date the Office of Safety and High Risk confirms to them in writing the proposed structure of the process that will be available to advise the University of whether or not they will participate. Either the Complainant or Respondent may request an extension of time by contacting the Office of Safety and High Risk, which may or may not be granted in the circumstances.
129. If the Office of Safety and High Risk has determined that a Facilitated Resolution Process is appropriate, and both parties have agreed, the Office of Safety and High Risk will assign a facilitator with the appropriate skills, training, and/or experience, including with respect to conducting a trauma-informed process.
130. The facilitator will engage in discussions with each of the Complainant and the Respondent about possible terms for the process, including:
- Facilitated discussions over a period of time
 - Structured mediated discussions with potential for same-day resolution
 - Whether or not the Complainant and Respondent wish to meet face-to-face during the process
131. Outcomes agreed upon should be within the control of the Complainant and Respondent. If there are outcomes that have impacts that are beyond the control of the Complainant and Respondent, to the extent they relate to the University, such outcomes must be approved by the University as set out in paragraph 132.

Possible outcomes of a Facilitated Resolution Process may include, but are not limited to, the following:

- Agreement for no contact between the Complainant and Respondent,
- Agreement for the Respondent to restrict or limit attendance in a specific geographic location,-
- Agreement that the Complainant will have priority for course registration preferences,-
- Agreement that the Complainant will have priority for U of T activities,
- Respondent counselling,
- Respondent coaching and education, and/or
- Respondent taking accountability for the impact of their conduct.

132. Any agreement reached in a Facilitated Resolution Process must be documented in writing and submitted to the Office of Safety and High Risk for review. If the proposed agreement includes

provisions that have impacts beyond the control of the Complainant and Respondent and that relate to the University, the decision maker as outlined in paragraphs 110 through 114 will be asked to review and approve.

133. Once reviewed by the Office of Safety and High Risk and approved by the decision maker if applicable, the agreement will be accepted in writing by both the Complainant and Respondent, and kept on file by the Office of Safety and High Risk.

134. If a Facilitated Resolution Process has not concluded within 90 calendar days of the date the Complainant and Respondent both agreed to the process, the Office of Safety and High Risk will assess the likelihood of a successful outcome and determine whether the process should continue.

135. The Complainant and/or Respondent may choose to withdraw from a Facilitated Resolution Process at any time prior to a resolution. Notice of withdrawal shall be provided to the Office of Safety and High Risk in writing.

136. If no ~~decision-resolution~~ is reached under the ~~non-adjudicative process~~ Facilitated Resolution Process within 90 calendar days or the extended period pursuant to paragraph 134, or if either the Complainant or Respondent withdraw from the process, or if the Respondent fails to comply with the outcome of the Facilitated Resolution Process, the matter will return to the Complainant may request to return the matter to the stage of the processes set out in Sections C and D that the Report was at when the Facilitated Resolution Process was initiated. 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.

137. Information shared by the Complainant and the Respondent during the Facilitated Resolution Process and the terms of an agreement reached through the Facilitated Resolution Process are without prejudice and cannot be used if the matter subsequently proceeds to an investigation and/or hearing.

138. If a Facilitated Resolution Process begins at or after the decision-making stage (Section E), the Office of Safety and High Risk will take the steps described in this Section in consultation with the applicable decision-maker.

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

139. 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. ~~The Complainant may withdraw from a process at any time by providing notice of withdrawal to the Office of Safety and High Risk.~~

140. 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, where the University determines it has a legal obligation to do so and/or there is an ongoing risk to the University community.~~ The University's

Commented [A178]: New paragraphs respond to community input and external legal expert's advice, and reflects current process.

Commented [A179R178]: Deleted "apology" in section 131 in response to community input and the external legal expert's advice.

Commented [A180]: Former paragraph 91. New text in response to community input and external legal expert's advice.

Commented [A181]: New paragraphs in response to community input and reflects current process.

Commented [A182]: Former paragraph 92. New text in response to community input.

Commented [A183]: Former paragraph 93. New text in response to community input.

~~assessment will be conducted on a case-by-case basis by the Office of Safety and High Risk in consultation with the applicable decision-maker set out in Section E.~~ 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).~~ The Complainant will also be entitled to be advised of what corrective actions have been taken or will be taken (if any), subject to any applicable legal obligations and access to information and privacy legislation.

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

141. 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.
142. 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 that includes Procedural Fairness.
143. In such circumstances, the University will make a determination under the section of this *Policy* entitled "~~Assessment and Appointment of an Investigator.~~"

Commented [A184]: Former paragraph 94.

Commented [A185]: Former paragraph 95.

Commented [A186]: Former paragraph 96.

+ IX. ANNUAL REPORT

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

Commented [A187]: Former paragraph 97.

VIII. X. REVIEW

145. 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.
146. 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 librarians, and will amend the *Policy* as appropriate.

Commented [A188]: Former paragraph 98.

Commented [A189]: Former paragraph 99.

Commented [A190]: New text is an update.

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*
- *Statement on Prohibited Discrimination and Discriminatory Harassment*
- *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*~~
- *Policy with Respect to Workplace Violence*
 - *Workplace Violence Program*
- *Standards of Professional Practice Behaviour for all Health Professions Students*
- *Policy on Conflict of Interest – Academic Staff*
- *Policy on Conflicts of Interest – Administrative Staff*
 - *Conflicts of Interest Guideline – Administrative Staff*
- *Policy on Conflict of Interest - Librarians*
- *Provost's Guideline for Faculty Members and Librarians Regarding Conflicts of Interest and Sexual, Intimate, or Familial Close Personal Relationships*

Policy on Sexual Violence and Sexual Harassment

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DEFINITIONS AND INTERPRETATION

Where the singular is used in this *Policy*, it should be interpreted as applying to the plural, as applicable.

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 voluntary, clear, 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. It is not a defence to an allegation of Sexual Violence that the Respondent believed, in the absence of consent that was voluntary, clear, positive, active, and ongoing, that the Complainant consented to the activity that forms the subject matter in a Report.

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.

Facilitated Resolution Process: As described in Section VIII F, this term refers to a process that attempts to resolve the matters alleged in a Report through a facilitated process that is agreed to by both the Complainant and the Respondent.

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

Intimate Partner Violence (IPV): An act within an intimate relationship, whether the act is physical or psychological in nature, that causes physical, sexual or psychological harm. This can include acts of physical aggression, assault, sexual assault, sexual coercion, psychological abuse and controlling behaviours. This definition covers violence by both current and former intimate partners.

Member(s) of the University Community: Includes students, learners, faculty, librarians, post-doctoral fellows, postgraduate medical residents, clinical fellows, and all employees of the University of Toronto. For clarity, faculty includes clinical, adjunct, status-only, retired, and visiting faculty.

Procedural Fairness: Procedural Fairness is an obligation owed to a Respondent of a Report. It requires that steps be taken to make sure that before someone faces negative consequences (e.g., discipline) because of a Report against them, they understand sufficient details about the allegations to be able to provide their response, and that they have an opportunity to provide their response to the Report should they wish. Sufficient details generally include the identity of the individual who has made the Report and information about the alleged Incident(s) of Sexual Violence. Procedural Fairness generally also includes:

- the right to an impartial decision maker;
- the opportunity to have the parties' views considered by the people making the decision; and
- the right to a decision and a rationale for that decision.

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.

Reprisal: Any action – including through professional, social or technological means – that imposes negative consequences against a Complainant to penalize them for disclosing or reporting Sexual Violence, or against any participant, such as a witness, to penalize them for sharing information with the University about an Incident of Sexual Violence and/or their participation in any stage of any process initiated by a Report. A threat of an act of Reprisal will be considered an act of Reprisal. The term “Reprisal” can be used interchangeably with the term “retaliation”.

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

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 Gender-based Violence, and sexual exploitation. Sexual Violence can occur in any format including in writing, in person, by voice, and/or through the use of technology (“Tech-facilitated Sexual Violence”).

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

Gender-based Violence: Violence committed, threatened, or attempted without Consent, targeting an individual because of their sex, sexual orientation, gender identity, or gender expression. It includes assault, sexual assault, harassment, stalking, indecent exposure, abuse through the use of technology (see definition of Tech-facilitated Sexual Violence below), and more.

Gender Expression: How a person publicly presents their gender. This can include dress (clothing), hair, grooming, body language/mannerisms, and voice. A person's chosen name and pronoun are also common ways of expressing gender.

Gender Identity: A person's internal and individual experience of gender. It is their sense of being a woman, a man, both, neither, or anywhere along the gender spectrum. A person's gender identity may or may not correspond to the sex assigned to them at birth.

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 penetration; 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 for rejecting a sexual solicitation or advance, where the Reprisal is made by a person in a position to confer, grant or deny a benefit or advancement to the person.

Tech-facilitated Sexual Violence: Acts of Sexual Violence that are conducted through the use of technology, including but not limited to any of the following:

- Cyber stalking
- Cyber voyeurism
- Sextortion
- Knowingly creating, publishing, distributing, transmitting, selling, making available or advertising an intimate image of a person or their likeness 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 is a visual recording of a person or their likeness made by any means, including real, AI-generated, or digitally altered photographs or video recordings, in which the person is in a state of nudity and/or engaged in sexual activity.

STATEMENT OF COMMITMENTS AND ACKNOWLEDGEMENTS

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 members of a society.

3. The University recognizes that individuals who have experienced Sexual Violence experience a range of impacts, including trauma, that can profoundly affect their lives.
4. The University is committed to responding to and addressing Incidents and Reports of Sexual Violence involving Members of the University Community, and to ensuring that those Members of the University Community who are affected by Sexual Violence receive support.
5. In implementing this Policy, the University is committed to providing a trauma-informed approach and process.
6. The University recognizes that Sexual Violence can occur between individuals regardless of sex, sexual orientation, gender identity or gender expression, or relationship status.
7. The University recognizes the intersection of Sexual Violence with other forms of violence and harm, including discrimination and harassment on the grounds set out in the Ontario *Human Rights Code*. The University recognizes that individuals from marginalized communities are often disproportionately affected by Sexual Violence.
8. Sexual Violence can be committed against any person and is an issue that requires an inclusive response. The University recognizes that Sexual Violence intersects with other forms of violence and harm based on identity, and in particular, that Sexual Violence is overwhelmingly committed against women, and trans and nonbinary people, and especially those who experience the intersection of multiple identities, such as those who are Indigenous, people with lived experiences of disability, and racialized. Additionally, the University recognizes that those whose gender identity or gender expression does not conform to historical gender norms, as well as those who are marginalized on the basis of sexual orientation, are also at increased risk of Sexual Violence.
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, and that flexibility is required in a trauma-informed approach.
10. The University is committed to providing accommodations where required to support the parties to a Report in continuing to participate in the University community as appropriate in the circumstances.
11. The University is committed to sharing information with a Complainant and a Respondent to a Report, as set out in this *Policy*.
12. The University recognizes that power dynamics are inherent in institutions of higher learning. Power dynamics may impact the ability of a party with inherently less power to decline sexual advances from a party with greater power. The University is committed to appropriately accounting for these dynamics in the processes set out in this Policy.

13. The University will not tolerate Reprisals 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.
14. The University is committed to making available programs and resources to educate its community on the prevention of and response to Sexual Violence.

I. APPLICATION AND SCOPE

15. 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. An online navigation tool is available to provide more information about this *Policy* to Members of the University Community.
16. Notwithstanding that the definition of Complainant under this *Policy* requires being a Member of the University Community, if a former Member of the University Community wishes to make allegation(s) of an Incident of Sexual Violence that occurred while both they and the Respondent were Members of the University Community, they should contact the Centre to discuss any options the University may have in the circumstances to review the allegation(s), which may include proceeding under this *Policy*.
17. This *Policy* relies on a centralized system of Reporting, investigation and decision-making for Reports 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 institutional services.
18. 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 facilitated by technology.
19. Support will be made available under this *Policy* to individuals who are Members of the University Community who disclose an Incident of Sexual Violence regardless of whether the Sexual Violence was committed by a Member of the University Community.
20. Only acts of Intimate Partner Violence that include physical assault of the Complainant and/or acts that are sexual in nature that otherwise amount to Sexual Violence shall be within the scope of this *Policy*. For information about support in the context of Intimate Partner Violence, please see paragraph 37.

II. CONFIDENTIALITY AND PRIVACY

21. 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*.

22. 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 support, accommodation, interim conditions and interim measures, and the investigation and decision-making processes; and taking corrective action resulting from those processes.
23. The University will maintain a protocol on record-keeping related to Sexual Violence Reports. The Office of Safety and High Risk will maintain a confidential database of Reports received.
24. 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.
25. 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) A Member of the University Community may be at risk of harm;
 - c) reporting or investigation is required by law (for example, obligations to report to a Children's Aid Society, or obligations under the *Occupational Health and Safety Act*, or the protection of rights under the *Human Rights Code*);
 - d) An affiliation agreement requires sharing information about residents, clinical fellows or clinical faculty, or students on a health sector placement, with an Affiliated Site. In such cases, the affiliation agreement may require the sharing of allegations, investigation results and/or corrective action that has been or will be taken;
 - e) Information must be disclosed to a professional regulatory body. In such cases, information regarding allegations, investigation results and/or corrective action may be disclosed;
 - f) Disclosure or Report is made to Campus Safety of an Incident of Sexual Violence that potentially violates the *Criminal Code of Canada*, which, notwithstanding paragraph 27, may require sharing information with the applicable municipal police force; or
 - g) Disclosure is required in the context of a court or tribunal hearing.
26. The University recognizes the harm caused by the creation and posting of intimate images without consent, and will implement protocols for the confidential retention and destruction of such images when shared with the University for the purposes of this *Policy*.

III. PRINCIPLES RESPECTING PROCESS

27. A person who has made a Disclosure and/or a Report of Sexual Violence has autonomy in making decisions regarding 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 67, 68, 69 and 70.
28. In the event that both a Reporting process and a criminal process are occurring regarding the

same Incident of Sexual Violence, the University may decide to temporarily pause a process under this *Policy*. In making this decision, it will seek and consider the views of the Complainant and Respondent. In the event the University decides to temporarily pause the process, it will revisit this decision as circumstances change and inform the Complainant and Respondent if and when a decision is made to end the pause. Similarly, the University may also decide to pause a process under this *Policy* where a regulatory process is taking place regarding the same Incident of Sexual Violence.

29. The University is committed to the provision of a fair process for all parties and one that respects Procedural Fairness.
30. The University is committed to reducing barriers to Disclosure and Reporting of incidents of Sexual Violence. In that regard,
 - a) Complainants will not be asked to repeat their accounts more than necessary for the implementation of this *Policy*; and
 - b) Complainants who make a Disclosure or Report about Sexual Violence will not be subject to discipline or sanction under the *Code of Student Conduct* or any other University policy for drug or alcohol use at the time of the alleged Sexual Violence.
31. The University process will appropriately accommodate the needs of Members of the University Community who are affected by Sexual Violence.
32. The University will provide regular updates to the Complainant and Respondent about the status of any process under the *Policy* initiated following a Report.
33. The University will respond to Disclosures and/or Reports of Sexual Violence fairly and expeditiously and will strive to conclude a process, including decision-making where applicable, within no more than 12 months from the date a completed Report is received by the University.
34. The Office of Safety and High Risk may delegate any of its decision-making and/or processes under this *Policy* to another appropriate office, including without limitation, the Workplace Investigations Office, the Office of the Vice-Provost Faculty & Academic Life, the Office of the Vice-President People, Strategy, Equity & Culture, or the Office of the Vice-Provost Students.

IV. EDUCATION, SUPPORT, AND RESOURCES

35. 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 67, 68, 69 and 70.
36. The University has established the Centre with a tri-campus presence. The Centre has a mandate to conduct intake, accept Disclosures 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.

37. Members of the University Community experiencing Intimate Partner Violence may seek support from the University even if the Intimate Partner Violence does not amount to Sexual Violence or otherwise fall within the scope of this *Policy*. The complexities of Intimate Partner Violence often require multiple forms of support including University safety resources along with external community supports. The Centre can provide support in identifying and accessing resources that may apply in a specific situation.
38. 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.
39. 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.
40. The University provides support to Members of the University Community who have had an allegation of Sexual Violence made against them.
41. While support to Respondents is not provided through the Centre, the Centre has a mandate to advise on appropriate educational initiatives related to Respondents, and to provide education to Respondents, ensuring there is no conflict with support being provided to a Complainant and in keeping with the commitment to confidentiality under this *Policy*.
42. The University will provide mandatory training, including about trauma-informed practices, to all individuals who are involved in implementing the *Policy* and related processes.

V. SAFETY, REPRISALS, INTERIM CONDITIONS AND INTERIM MEASURES

43. In cases where the Complainant has safety concerns, the Centre is available to facilitate safety planning and/or direct the Complainant to appropriate resources and services within and outside the University. In addition, where any participant in a process under this *Policy* has safety concerns, they may raise them with the Office of Safety and High Risk, which will coordinate the provision of available safety planning and/or direct them to appropriate resources and services within and outside the University.
44. 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.
45. The University will not tolerate any Reprisal 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.
46. 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 provide measures of accommodation or impose interim conditions or interim measures appropriate in the circumstances to minimize opportunities for Reprisals.

47. 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, may include the following:
 - Examples of such measures for students include: separation of parties, class and/or schedule changes, and/or housing changes;
 - Examples of such measures for employees include: making changes that are not disciplinary but precautionary to avoid contact between parties.
48. The University may impose, and if applicable, vary, interim conditions and/or interim measures any time after a Report is made until the end of a process under this *Policy*. If the same or similar measures are to be imposed after the process has concluded, they will be imposed as (part of) the outcome of the matter and in accordance with any applicable University policy.
49. If a Complainant is of the view that a Reprisal or breach of an interim condition or interim measure has or may have taken place, they should advise their support person at the Centre and/or the Office of Safety and High Risk at the earliest opportunity. Any other participant experiencing such an act should bring it to the attention of the Centre and/or the Office of Safety and High Risk at the earliest opportunity.
50. Reprisals or breaches of interim conditions or interim measures will be assessed by the Office of Safety and High Risk in a parallel process to that set out in paragraph 85.
51. If the Office of Safety and High Risk makes the determination that the alleged act does not appear to constitute a Reprisal or breach of interim conditions or interim measures, the individual who made the allegation may seek a review of that decision by making a request in writing within 30 calendar days of the decision to the Vice-President and Provost or designate or to the Vice-President, People Strategy, Equity & Culture or designate, who will review the matter and advise the individual of their decision in writing within 30 calendar days.
52. If the Office of Safety and High Risk makes the determination that the alleged act(s) could constitute a Reprisal or breach of interim conditions or interim measures, the allegations may be handled in any of the following ways:
 - a) Allegations of Reprisals by a Respondent during a process under this *Policy* will be treated as new Incidents of Sexual Violence and may be included in an investigation under this *Policy*.
 - b) Allegations of breaches of interim conditions or interim measures during a process under this *Policy* may be treated as new Incidents of Sexual Violence and may be included in an investigation under this *Policy*.

- c) Allegations of Reprisals or breaches of interim conditions or interim measures that are not included in an investigation under this *Policy* will be assessed by the Office of Safety and High Risk, which will make a factual determination.
 - d) A breach of an interim condition or interim measure may meet the definition of Reprisal and be treated as such.
53. If a determination is made that a Reprisal or breach of interim conditions or interim measures occurred, the following apply:
- a) Reprisals by any participant in a process under this *Policy* may be treated as a disciplinary matter pursuant to the applicable process depending on their relationship with the University.
 - b) Reprisals or breaches of interim conditions or interim measures may result in the University reviewing the existing interim conditions or interim measures and the University may amend or impose new interim conditions or interim measures.
54. In the event that the University temporarily pauses a process under this *Policy*, interim conditions or interim measures may be imposed, amended, and continued despite the pause.

VI. ACCESSING THE *POLICY*: DISCLOSURE AND REPORTING

55. Disclosure and Reporting are separate actions that the Complainant can choose to take.
56. 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.
57. 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.
58. 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.
59. 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.
60. 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.

VII. DISCLOSURE

61. 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.
62. 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.
63. 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.
64. 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.
65. 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.
66. 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.
67. 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.
68. 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*.
69. 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.
70. The Centre can, on a confidential basis, consult or seek the assistance of other internal personnel or resources of the University to facilitate the safety, follow-up, and support of those involved in a Disclosure of Sexual Violence.

VIII. REPORTING

A. REPORTING PROCESS

71. To initiate a Report under this *Policy*, the Complainant should contact the Centre.
72. In case of emergency, an individual who has experienced Sexual Violence can contact 911 or Campus Safety, the latter of which is in turn required to inform the Centre as well as municipal police services. In the event 911 has been contacted due to an emergency, a Report to the Centre can also be made at a later date.
73. Reporting can be initiated in person, virtually, by phone, or online. A Complainant can also request that the Centre staff file a Report on their behalf to reduce the number of times they have to tell their story.
74. A Report under this *Policy* will include at least the following information: the name and contact information of the individual(s) making the Report (the Complainant); the name(s), if known, and/or identifying information of the individual(s) against whom the Report is being made (the Respondent); and a summary of the incident(s) alleged to constitute Sexual Violence including to the extent possible the date(s), time(s) and location(s) of the incident(s).
75. The University has the jurisdiction to investigate Reports of Sexual Violence made against a Member of the University Community under this *Policy*.
76. 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.
77. A Complainant is not precluded from reporting an Incident of Sexual Violence to municipal police services if they have filed a Report about the Incident of Sexual Violence under this *Policy*. A Complainant is not precluded from filing a Report about an Incident of Sexual Violence with 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.
78. Once a Complainant has made a Report of an Incident of Sexual Violence under this *Policy*, 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.
79. A Complainant making a Report may, at the time of submitting their Report, indicate if they have a preference for an investigation or a Facilitated Resolution Process.
80. At the time of the notification of a Report, the Respondent will be made aware of the supports that are available to them.
81. 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*.

82. 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

83. 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.
84. 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.
85. Some of the options that the University may offer to the Complainant following a Report include, but are not limited to the following:
- 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 www.svpscentre.utoronto.ca
 - b) The University may communicate with the Respondent to inform them that their conduct toward the Complainant is unwelcome and to note the no-Reprisal provisions of this *Policy*;
 - c) Safety planning;
 - d) Accommodations, including for example:
 - For students: exam or assignment deferral, class and/or schedule changes, emergency bursaries, and/or housing changes.
 - For employees: changes to work hours or location that are not disciplinary but precautionary to avoid contact between parties.
86. 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.

C. ASSESSMENT

87. While the Centre conducts intakes and receives Disclosures and Reports, the assessment and investigation processes will be coordinated through the Office of Safety and High Risk.

88. Upon receipt or completion of a written Report, the Centre will send the Report to the Office of Safety and High Risk. Upon receiving a Report, the Office of Safety and High Risk 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 or not to commence a process (i.e., either an investigation or Facilitated Resolution Process) under the *Policy*.
89. A Report under this *Policy* may also include allegations under other University policies or guidelines. In the event that more than one *Policy* or process is engaged by the same Report, the University will consolidate the processes to the extent possible.
90. Within 30 calendar days of the Office of Safety and High Risk receiving a completed written Report, it will provide the Complainant with an outline of next steps, and estimated timelines.
91. The Complainant can choose not to request an investigation by the University. The Complainant has the right not to participate, or to cease participating, 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.”
92. 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.
93. 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.
94. 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.
95. If the University decides not to investigate or proceed with a Facilitated Resolution

Process, it will still make support and services available to Complainants, which may include counselling, access or referrals to medical, legal and other services, and academic and other accommodations.

D. INVESTIGATION

96. Once a determination has been made to commence an investigation, a competent person with the appropriate skills, training, and/or experience, including with respect to conducting trauma-informed investigations, 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.
97. 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.
98. 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 Procedural Fairness. The University will strive to complete investigations within 8 months, from the date the investigator is appointed until the date the Complainant and Respondent are notified of the investigation findings.
99. 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.
100. The investigator will provide the Complainant with a document setting out the Respondent's response to each of the Complainant's allegations, if the Respondent responded either orally or in writing.
101. The Complainant may submit a reply to the response within a reasonable timeframe set by the investigator. If no reply is received within the time requested, the investigator can proceed in the absence of a reply.
102. The investigator will provide the Respondent with a document setting out the Complainant's reply, if the Complainant responded either orally or in writing.
103. The Complainant and Respondent may choose to submit any additional information to the investigator, including the names of any potential witnesses.
104. 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.
105. 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*.

106. 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.
107. 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. The investigator does not make findings with respect to whether or not there was a violation of the *Policy* or any other university policy or guideline or law.
108. 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*.
109. Prior to decision-making, the Complainant and Respondent will be invited by the decision-maker or designate to provide their views on the results of the investigation that have been conveyed to them, and input into any next steps that the University may be considering.

E. DECISION-MAKING AND APPEAL PROCESS

110. In the case of a student Respondent, the investigation report will be reviewed by the Vice-Provost, Students or designate to determine whether the *Policy* has been breached and, if so, the appropriate discipline or sanctions, selected from the list of sanctions available under the *Code of Student Conduct*, with the exception of the recommendation for suspension or expulsion. The Respondent will be notified in writing of the decision and any discipline or sanction imposed. The Respondent may file a written appeal of the Vice-Provost, Students’ decision to the Provost within 14 calendar days of the notification. The Provost may dismiss or allow the appeal in a written decision. If the appeal is allowed, the Provost shall substitute their own decision for that of the Vice-Provost, Students. If the Vice-Provost, Students believes that the *Policy* has been breached and that the appropriate sanctions should include suspension or expulsion, the Vice-Provost, Students shall refer the matter for a hearing under the *Code of Student Conduct*. 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*.
111. 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.
112. 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.

113. In the case of a Respondent who is a post-graduate medical resident, post-graduate clinical fellow and/or a clinical faculty member, 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:
 - a) in the case of a Respondent who is a post-graduate medical resident, whether to refer the matter for consideration of remediation, remediation with probation, suspension or dismissal pursuant to the [Guidelines for the Assessment of Postgraduate Residents](#). Appeals against a decision of the Board of Examiners – Postgraduate may be made to the Faculty of Medicine Appeals Committee as provided for in the Guidelines for Assessment of Postgraduate Residents.
 - b) in the case of a Respondent who is a post-graduate clinical fellow, determine whether remediation, probation, suspension, or termination is appropriate in accordance with the [Guidelines for Educational Responsibilities in Clinical Fellowships](#). Where applicable, the Provost or designate may also consult with the relevant Affiliated Site, clinical site and/or other employer of the clinical fellow in determining the appropriate outcome.
 - c) in the case of a Respondent who is a clinical faculty member, determine 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, if eligible, will have access to the grievance process under the [Procedures Manual for the Policy for Clinical Faculty](#). Where applicable, the Provost or designate may also consult with the relevant Affiliated Site in determining the appropriate outcome.
114. 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.
115. 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 110 through 114, the University will decide which process(es) will apply in the circumstances of the particular case.
116. 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.
117. Subject to any applicable legal obligations and access to information and privacy legislation, Complainants will be made aware of what corrective actions have been taken or will be taken

(if any). Complainants will be advised of any corrective action that impacts them directly. Other participants (e.g. witnesses) may be notified when a process has concluded.

118. 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*.
119. The University may proceed with decision-making under this *Policy* even if the Respondent and/or Complainant cease to be a Member of the University Community during a process under this *Policy* and/or did not participate in all or part of a process under this *Policy*.

F. FACILITATED RESOLUTION PROCESS

120. The University recognizes that some individuals affected by Sexual Violence may prefer to not have an investigation conducted into their Report. These individuals may prefer a Facilitated Resolution Process.
121. A Facilitated Resolution Process is a voluntary structured process between the Complainant and Respondent that is focused on resolution. Such a process takes into account safety, support, and, if appropriate, a Respondent taking accountability for the impact of their conduct without the imposition of disciplinary action against a Respondent.
122. The Complainant and Respondent must each agree to participate in the process, and to the structure and terms of a Facilitated Resolution Process.
123. The Facilitated Resolution Process does not require face-to-face contact between the Complainant and Respondent. However, the Complainant and Respondent can agree to meeting face-to-face during the process.
124. A Complainant or Respondent can request a Facilitated Resolution Process at any stage after a Report has been made under this *Policy*.
125. A Complainant may request a Facilitated Resolution Process through the Centre or Office of Safety and High Risk; the Respondent may request a Facilitated Resolution Process through the Office of Safety and High Risk.
126. Upon receipt of a request for a Facilitated Resolution Process, the Office of Safety and High Risk will make an assessment related to safety and risk factors in order to determine whether to offer a Facilitated Resolution Process in the circumstances.
127. If the Office of Safety and High Risk has determined that it will offer a Facilitated Resolution Process, it will contact the Complainant and Respondent to inform them of the purpose and proposed structure of the Facilitated Resolution Process to confirm whether both parties are willing to participate.
128. The Complainant and Respondent will have 30 calendar days from the date the Office of Safety and High Risk confirms to them in writing the proposed structure of the process that will be

available to advise the University of whether or not they will participate. Either the Complainant or Respondent may request an extension of time by contacting the Office of Safety and High Risk, which may or may not be granted in the circumstances.

129. If the Office of Safety and High Risk has determined that a Facilitated Resolution Process is appropriate, and both parties have agreed, the Office of Safety and High Risk will assign a facilitator with the appropriate skills, training, and/or experience, including with respect to conducting a trauma-informed process.
130. The facilitator will engage in discussions with each of the Complainant and the Respondent about possible terms for the process, including:
 - a) Facilitated discussions over a period of time
 - b) Structured mediated discussions with potential for same-day resolution
 - c) Whether or not the Complainant and Respondent wish to meet face-to-face during the process
131. Outcomes agreed upon should be within the control of the Complainant and Respondent. If there are outcomes that have impacts that are beyond the control of the Complainant and Respondent, to the extent they relate to the University, such outcomes must be approved by the University as set out in paragraph 132.

Possible outcomes of a Facilitated Resolution Process may include, but are not limited to, the following:

- a) Agreement for no contact between the Complainant and Respondent,
 - b) Agreement for the Respondent to restrict or limit attendance in a specific geographic location,
 - c) Agreement that the Complainant will have priority for course registration preferences,
 - d) Agreement that the Complainant will have priority for U of T activities,
 - e) Respondent counselling,
 - f) Respondent coaching and education, and/or
 - g) Respondent taking accountability for the impact of their conduct.
132. Any agreement reached in a Facilitated Resolution Process must be documented in writing and submitted to the Office of Safety and High Risk for review. If the proposed agreement includes provisions that have impacts beyond the control of the Complainant and Respondent and that relate to the University, the decision maker as outlined in paragraphs 110 through 114 will be asked to review and approve.
 133. Once reviewed by the Office of Safety and High Risk and approved by the decision maker if applicable, the agreement will be accepted in writing by both the Complainant and Respondent, and kept on file by the Office of Safety and High Risk.
 134. If a Facilitated Resolution Process has not concluded within 90 calendar days of the date the Complainant and Respondent both agreed to the process, the Office of Safety and High Risk will assess the likelihood of a successful outcome and determine whether the process should continue.

135. The Complainant and/or Respondent may choose to withdraw from a Facilitated Resolution Process at any time prior to a resolution. Notice of withdrawal shall be provided to the Office of Safety and High Risk in writing.
136. If no resolution is reached under the Facilitated Resolution Process within 90 calendar days or the extended period pursuant to paragraph 134, or if either the Complainant or Respondent withdraw from the process, or if the Respondent fails to comply with the outcome of the Facilitated Resolution Process, the matter will return to the stage of the processes set out in Sections C and D that the Report was at when the Facilitated Resolution Process was initiated.
137. Information shared by the Complainant and the Respondent during the Facilitated Resolution Process and the terms of an agreement reached through the Facilitated Resolution Process are without prejudice and cannot be used if the matter subsequently proceeds to an investigation and/or hearing.
138. If a Facilitated Resolution Process begins at or after the decision-making stage (Section E), the Office of Safety and High Risk will take the steps described in this Section in consultation with the applicable decision-maker.

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

139. 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. The Complainant may withdraw from a process at any time by providing notice of withdrawal to the Office of Safety and High Risk.
140. 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 where the University determines it has a legal obligation to do so and/or there is an ongoing risk to the University community. The University's assessment will be conducted on a case-by-case basis by the Office of Safety and High Risk in consultation with the applicable decision-maker set out in Section E. 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 be entitled to be advised of what corrective actions have been taken or will be taken (if any), subject to any applicable legal obligations and access to information and privacy legislation.

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

141. 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.
142. 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 process that includes Procedural Fairness.

143. In such circumstances, the University will make a determination under the section of this *Policy* entitled “Assessment.”

IX. ANNUAL REPORT

144. 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.

X. REVIEW

145. 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.
146. 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, faculty, and librarians, 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*
- *Statement on Prohibited Discrimination and Discriminatory Harassment*
- *Policy with Respect to Workplace Harassment*
 - *Human Resources Guideline on Civil Conduct*
 - *Guidelines for Employees on Concerns and Complaints Regarding Prohibited Discrimination and Discriminatory Harassment*
- *Policy with Respect to Workplace Violence*
 - *Workplace Violence Program*
- *Standards of Professional Practice Behaviour for all Health Professions Students*
- *Policy on Conflict of Interest – Academic Staff*
- *Policy on Conflicts of Interest – Administrative Staff*
 - *Conflicts of Interest Guideline – Administrative Staff*
- *Policy on Conflict of Interest - Librarians*
- *Provost’s Guideline for Faculty Members and Librarians Regarding Conflicts of Interest and Sexual, Intimate, or Familial Relationships*