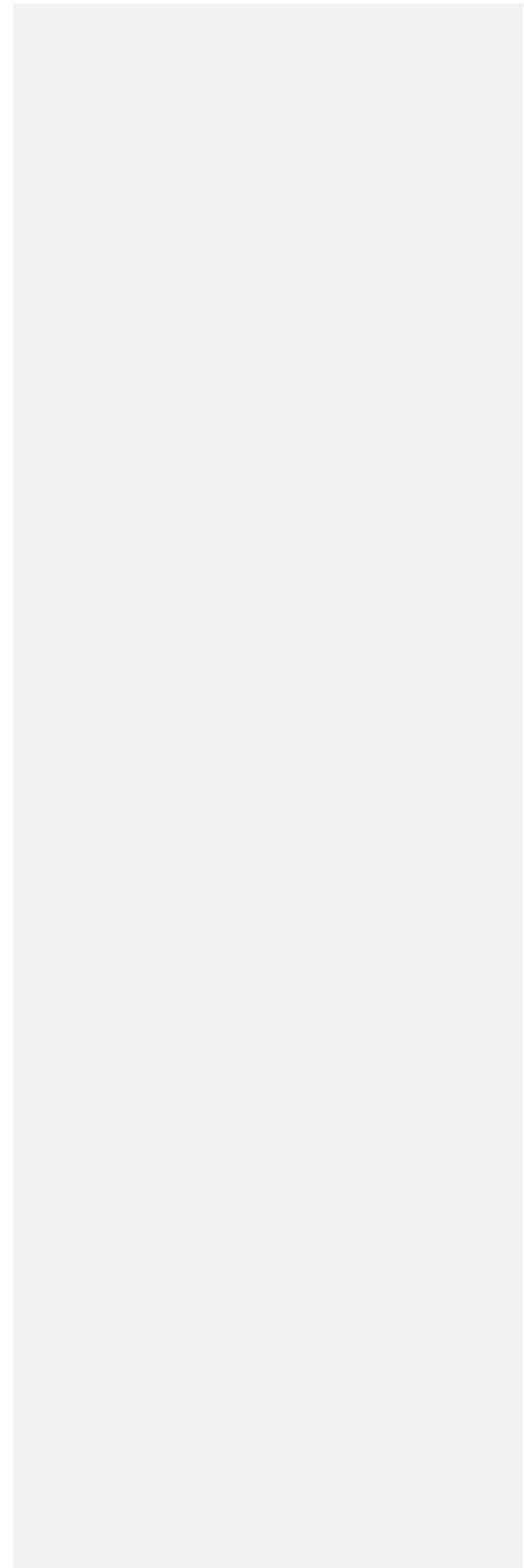




Carleton
UNIVERSITY

Sexual Violence Policy





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Policy Name: Sexual Violence Policy
Originating/Responsible Department(s): Office of the Vice-President (Students and Enrolment) ~~and Equity Services~~
Approval Authority: Board of Governors
Date of Original Policy: December 1, 2016
Last Updated: ~~N/A~~ April X 2019
Mandatory Revision Date: ~~December 1, 2019~~ April X 2022

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Contact: Vice-President (Students and Enrolment)

1. Purpose of the Policy

1.1. As a community, Carleton University supports and is committed to maintaining a positive learning, working and living environment where sexual violence will not be tolerated and is treated with the seriousness it deserves. Carleton acknowledges that individuals who are members of equity-seeking groups who experience intersecting forms of disadvantage based on the protected grounds in the Ontario Human Rights Code may be disproportionately affected by sexual violence and its consequences. The purpose of this Policy is to articulate Carleton University's commitment to a safe, supportive and healthy campus and to confirm its commitment to provide support to those members directly affected by sexual violence.

1.2. This Policy is also intended to:

- a) Set out the University's statement of values and commitments to address sexual violence;
- b) Provide information about supports and services available at Carleton University and in the community;
- c) Ensure follow-up once a report is made to the University;
- d) Provide information about the University's process for responding to and addressing incidents and complaints of sexual violence;
- e) Meet the University's obligations under the Ministry of Training, Colleges and Universities Act and the Occupational Health and Safety Act with respect to sexual violence, sexual harassment, and workplace sexual harassment; and,

- f) Reinforce and enhance the Carleton University Statement on Conduct and Human Rights and related policies and procedures addressing sexual violence, sexual harassment and workplace sexual harassment.

2. Carleton's Commitment and Values

2.1. Carleton is committed to:

- a) Continually fostering an environment where members of the University community can live, study and work free of sexual violence;
- b) Recognizing that anyone can be harmed by sexual violence and that it is a fundamental affront to an individual's rights, dignity and integrity;
- c) Seeking first to prevent and then to redress sexual violence, by safely intervening and speaking out when the University sees it occurring;
- d) Adopting a survivor-centered approach to providing services to those who have experienced sexual violence;
- e) Ensuring that members of the University community who experience sexual violence are supported, treated with compassion and appropriately accommodated;
- f) Addressing acts of sexual violence in the University community;
- g) Combating broader societal attitudes regarding gender, sex and sexuality that normalize sexual violence and undermine equality;
- h) Providing or making available to members of the University community education and awareness training on this Policy and on the prevention of sexual violence, with content tailored to the audience and relevant to their role and responsibility in responding to and addressing sexual violence; and,
- i) Maintaining and reporting annual statistics, without identifying information, on disclosed and reported incidents of sexual violence on campus, and in accordance with legislative requirements.

2.2 Consensual Romantic or Sexual Relationship Guidelines

- a) As stated in the University's Human Rights Policies and Procedures, the University recognizes that, within its community, power differences exist between and among faculty, staff, students and associated professionals. The University strongly discourages consensual sexual or romantic relationships between individuals in positions of authority (such as faculty, instructional staff, managers or supervisors, and athletic staff), and the students or employees whose performance they are responsible for grading, supervising or evaluating. These relationships may lead to significant problems including allegations or charges of sexual harassment, conflict of interest, or questions regarding the validity of consent. Pedagogical relationships and the workplace must be protected from influences or activities that can interfere with learning, personal development and the working environment. For these reasons, the University strongly discourages faculty and staff from commencing or continuing any consensual or sexual relationship with a student or employee they are in a position of authority over and emphasizes that such relationships are to be avoided.
- b) If notwithstanding the forgoing, a consensual romantic or sexual relationship is not avoided, any existing or past relationship must be disclosed pursuant to these guidelines and the University's Human Rights Policies and Procedure.
- c) Accordingly, the University requires timely disclosure of such relationships by the individual in the position of authority to the relevant appropriate authority as follows: the relevant Dean, the University Librarian, Vice-President, or the President as appropriate.
- d) Any and all appropriate actions required to manage the conflict of interest will be taken including but not limited to those outlined in the Human Rights Policies and Procedures. At a minimum the individual in the position of authority involved in a relationship, must remove themselves from the grading or supervising role and appropriate alternative arrangements will be put in place.
- e) Actions in violation of these guidelines and/or the Human Rights Policies and Procedures are considered to be unprofessional conduct and may be subject to discipline under the collective agreement or employment agreement the employee is subject.

2.2

3. Scope of the Policy

- 3.1. This Policy applies to all members of the University community (as defined below), whether they are in the University's learning, living or work environment,

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on or off campus, or interacting through social or other electronic media. This Policy does not replace or supersede existing collective agreement provisions.

4. Definitions

4.1. For purposes of this policy and its interpretation, the following terms are defined:

“Appropriate Manager/Supervisor” means the person in a position of authority over the Respondent as identified in any applicable collective agreement.

“Complainant” refers to the person who is making a complaint under this Policy.

“Consent” means an active, direct, voluntary, unimpaired, and conscious choice and agreement to engage in sexual activity. Consent cannot be given by a person whose judgement is impaired by drugs and/or alcohol or by other forms of impairment. It is not acceptable for a person who is said to have engaged in sexual violence to use their own consumption of alcohol and/or drugs as an excuse for their mistaken belief that there was consent. For further clarity, consent:

- Can be revoked at any time during sexual activity;
- Cannot be assumed nor implied;
- Cannot be given by silence or the absence of “no”;
- Cannot be given by an individual **whose judgment** is impaired by alcohol and/or drugs, is unconscious or asleep;
- Cannot be obtained through coercion or threats;
- Cannot be given if the person who has engaged in sexual violence has abused a position of trust, power or authority; and,
- Might not be given properly if an individual has a condition that limits their verbal or physical means of interaction – in such instances, it is extremely important to determine how consent will be established.

“Disclose” means sharing information pertaining to an incident of sexual violence for the sole purpose of learning about and/or receiving support and services.

“Rape culture” means a culture in which dominant ideas, social practices, media images and societal institutions implicitly or explicitly condone sexual assault by normalizing or trivializing sexual violence and by blaming survivors for their own abuse.

“Report” means to inform about an incident of sexual violence, to learn about the University’s formal complaint procedures, and/or to file a formal complaint under this Policy.

“Respondent” refers to the person against whom a complaint has been filed under this Policy.

“Sexual assault” means any kind of sexual contact without a person’s consent. It can include unwanted kissing, fondling, oral or anal sex, intercourse, other forms of penetration, or any other unwanted contact of a sexual nature.

“Sexual harassment” means engaging in a course of vexatious comment or conduct (based on sex, sexual orientation, gender identity or gender expression) that is known or ought reasonably to be known to be unwelcome. The following is a list of examples that is not meant to be exhaustive:

- Sexual solicitation or unwanted sexual attention from a person who knows or ought reasonably to know that such attention is unwanted;
- A single comment or conduct may constitute sexual harassment if it is of a serious nature or egregious;
- An implied or expressed promise of reward for complying with a sexually oriented request;
- An implied or expressed threat of reprisal or actual reprisal for refusing to comply with a sexually oriented request;
- A sexual relationship that constitutes an abuse of power in a relationship of authority; or,
- A sexually oriented comment or behaviour that may reasonably be perceived to create a negative psychological and emotional environment for living, work or study.

“Sexual violence” means 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. It includes sexual assault, sexual harassment, stalking, indecent exposure, voyeurism and sexual exploitation. For further clarity, sexual assault includes rape.

“Survivor” means a person who has experienced sexual violence.

“University community” means all individuals who have a relationship with or to the University (or had at the time of the incident), including but not limited to:

- Students, meaning individuals registered as students at the University, whether full-time or part-time (including special students), at the non-credit, undergraduate or graduate level;
- All employees and faculty, including all unionized and non-unionized academic and support staff as well as those whose salary is paid through sources other than the University’s operating funds, such as grants, research grants and external contracts;
- Persons with an academic appointment including but not limited to adjunct, visiting and emeritus professors, post-doctoral or clinical fellows and research trainees;
- Contractors, consultants, suppliers or other entities engaged by the University to provide services or goods when on University property

or while acting in a capacity defined by their relationship to the University;

- Members of the Board of Governors, of the Senate and any of their respective committees, as well as members of any advisory committee formed to help the University achieve its goals; and,
- Employees of both unionized and non-unionized employee and student groups when on University property or while acting in a capacity defined by their relationship to the University.

“Workplace sexual harassment” means engaging in a course of vexatious comment or conduct against a worker in a workplace because of sex, sexual orientation, gender identity or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome, or making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement to the worker and the person knows or ought reasonably to know that the solicitation or advance is unwelcome.

5. Education, Prevention and Awareness

5.1. The University will build the capacity of the Carleton community to address sexual violence and play a role in ending sexual violence in our community. As such, the University and our campus partners, will:

- a) Engage in public education and prevention activities;
- b) Provide the University community with ongoing education and training about sexual violence including information on how to respond to the disclosure of sexual violence;
- c) Contribute to a campus atmosphere in which sexual violence is not tolerated while recognizing academic freedom (as outlined in the applicable collective agreement and in the Carleton University Statement of Conduct and Human Rights) for students, faculty and staff to explore controversial topics related to this issue; and,
- d) Monitor and update University policies to ensure that they remain effective and in line with other existing policies and best practices.

5.2. The University ~~will establish the~~has a Sexual Violence Prevention and Education Committee (SVPEC) with representation from students, staff, faculty and senior administrators. This committee will be chaired by the Director of Equity Services and report to the President. Individuals will be invited to self-nominate/apply for the SVPEC. Equity Services and the Office of the Vice-President (Students and Enrolment) will collaborate to choose an appropriate number of members from

across the university to serve on the committee. Generally speaking the purposes of the SVPEC will be to:

- a) Encourage the University community to work together to promote a safe learning, living and work environment for the members of the University community;
- b) Contribute to a campus atmosphere in which sexual violence is not tolerated;
- c) Make recommendations to the Office of the President on this Policy for consideration during a review process and -with regard to sexual violence prevention and awareness;
- d) Make recommendations to the Office of the President on resources required or other measures related to addressing sexual violence and support services; and,
- e) Consider and recommend proposals for new training programs brought forward by Equity Services and monitor the coordination, implementation and success of training programs related to sexual violence.

5.3. The Board of Governors shall receive and consider annual reports ~~from Equity Services~~ in respect of sexual violence, including the following:

- a) The number of times supports, services and accommodation relating to sexual violence are requested and obtained and information about the supports, services and accommodation;
- b) Initiatives and programs established to promote awareness of the supports and services available;
- c) The number of incidents and complaints of sexual violence, and information about the incidents and complaints; and
- d) The implementation and effectiveness of this Policy.

6. Support Services and Disclosure

6.1. General provisions about reporting and disclosure

- a) At any time, a person who has experienced sexual violence may consult with or seek advice and support from the relevant student association, union or other employee group.

- b) If an incident of sexual violence is disclosed to a member of the University community, the person to whom it is reported has a duty to refer the person to this Policy and inform the person that the Sexual Assault Support Centre within Equity Services (hereafter “Equity Services”) is the office to contact in order to get information about the availability of supports and services.

6.2. Support and Services

- a) Individuals who disclose that they have experienced sexual violence will be provided support services and will be treated with dignity and respect at all times by the University and its representatives. A person affected by sexual violence is **not** required to report an incident of or make a complaint about sexual violence under the formal complaint process of this Policy in order to obtain support and services, or in order to receive appropriate accommodation for their needs.
- b) The supports and services available at the University to obtain information about sexual violence and/or support are as follows:

Support and services available from the University:

Sexual Assault Support Centre
613-520-5622
www.carleton.ca/equity

Health and Counselling Services
613-520-6674
www.carleton.ca/health

~~University-Campus~~ Safety ~~Services~~
General inquiries: 613-520-3612
Emergencies: 613-520-4444
www.carleton.ca/safety

Support and services available from off-campus providers:

Ottawa Police Service
General Inquiries: 613-236-1222
www.ottawapolice.ca

Ottawa Rape Crisis Centre
24 hour crisis line: 613-562-2333
General inquiries: 613-562-2334
www.orcc.net

Sexual Assault Support Centre of Ottawa

24 hour support line: 613-234-2266
General Inquiries: 613-725-9259

Sexual Assault and Partner Abuse Program at the Civic Campus of
the Ottawa Hospital
613-798-5555 x 13770

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6.3 Disclosure in an emergency – University-Campus Safety Services

- a) In an emergency on campus (i.e., imminent threat of sexual violence and of harm to a person or sexual violence actually occurring) a report can be made 24 hours per day, 7 days a week, 365 days per year in the following ways:
- Call 911 (and notify Campus Safety Services)
 - University-Campus Safety Services emergency number 613-520-4444
 - Red telephones and yellow call boxes (located in building lobbies, corridors, computer labs and parking garages) connect directly with Campus University Safety Services.
 - Blue Light Assistance Phones located outside on campus grounds, in parking garages and in the tunnel system provide a direct link with Campus University Safety Services.
 - Public telephones on campus – free to dial 613-520-4444 or 911
 - In person: University Safety Office – 203 Robertson Hall
- b) When a person discloses an incident of sexual violence to University Campus Safety Services, University-Campus Safety Services must inform Equity Services for follow-up. See paragraph 6.4 of this Policy.

6.4 Disclosure in a non-emergency – Equity Services

Equity Services is responsible for handling all disclosures of sexual violence involving a member of the University community in a non-emergency situation, whether the sexual violence has occurred on or off campus. An Equity Services staff member will provide information about available support and services, including information about interim measures that may be available to address the immediate needs (see examples in paragraph 6.5 (a) of this Policy). Equity Services is the point of contact for a person affected by sexual violence to request academic, employment or other accommodations.

6.5 Follow-up on disclosure and Accommodations

- a) When a person reports sexual violence to University Campus Safety Services and/or Equity Services, an Equity Services Advisor will contact the person to learn more about the circumstances, the person's needs and expectations, and the outcome sought. The Equity Services staff member will make every effort to assist the person and will discuss options to address or resolve the matter in a timely and supportive way. The appropriateness of these options will depend on the person's needs and on the circumstances. The following list of examples (which is not exhaustive) includes:
- Providing referrals to contacts for suitable supports, services or resources available at the University and in the city, including the Sexual Assault Services Coordinator;
 - Sharing information on what the person can do or what the Equity Services Officer or other person may do to intervene in the situation;
 - Discussing the availability of interim academic or employment accommodation or other measures to stabilize a situation, to protect the person from retaliation or the threat of retaliation, to address safety or other concerns, and/or to otherwise support the person. Examples of measures for students include exam or assignment deferral, class and/or schedule changes, housing changes, and no-contact orders. Examples for employees include making changes that are not disciplinary but precautionary to avoid contact between parties or placing the Respondent on a temporary non-disciplinary leave with pay;
 - Providing information on methods available to facilitate a resolution;
 - Describing the process of filing a formal complaint under Section 9 of this Policy; and,
 - Information about any other available options to address or resolve the matter.
- b) Where appropriate the Director of Equity Services will engage the Sexual Violence Review Committee to ensure the safety, follow-up and support for those involved in a report of sexual violence.
- c) The Sexual Violence Review Committee (SVRC) is composed of:
- Vice-President Students and Enrolment or designate (Chair)
 - ~~Director of Equity Services~~
 - Director of Health and Counselling Services or designate
 - Director of University Safety or designate
 - Director of Student Affairs (when the Complainant or Respondent is a student) or designate

- ~~Director of Employee and Labour Relations~~ Manager, Labour Relations (when the Complainant or Respondent is an Employee) or designate

All members of the SVRC will receive sexual violence and procedural fairness training.

d) Equity Services must ensure that the following steps occur:

- The person who has experienced sexual violence is given information regarding internal and external personal support and advocacy services, and internal (non-criminal) and external (criminal and other legal proceedings) complaint processes;
- Appropriate academic, employment or other accommodation and interim measures are made available and implemented to stabilize the situation and/or separate the parties and to address any safety or security concerns; and,
- A threat assessment is conducted as required.

e) ~~Equity Services and T~~he Sexual Violence Review Committee can, on a confidential basis, consult or seek the assistance of other internal authorities (such as Health and Counselling Services, Human Resources, Equity Services or the Sexual Assault Services Coordinator) or resources. They can also consult or seek the assistance of external parties relevant to the particular incident, such as rape crisis centers and counselling services.

7. Confidentiality

7.1. All reports and disclosures of sexual violence to the University will be treated in a confidential manner and in accordance with the Freedom of Information and Protection of Privacy Act (FIPPA) and with the provisions of applicable collective agreements.

7.2. All members of the University community who receive a report or disclosure of sexual violence or who are involved in addressing or investigating it must keep the matter confidential. This is in order to protect the rights of those involved in the allegations; to prevent an unjustified invasion of their personal privacy; to preserve the integrity of the investigation, and to safeguard individuals against unsubstantiated allegations. See paragraph 8.5 of this Policy for more details on confidentiality related to the formal complaint process.

7.3. The University will make every reasonable effort to maintain confidentiality when it becomes aware of an incident of sexual violence and will limit disclosure of information about individuals to those within the University who need to know for the purposes of, or those consistent with, addressing the situation, investigating or taking corrective action. Under the following circumstances, however, the

University might face additional legal obligations and may not be able to guarantee complete confidentiality if:

- a) An individual is at risk of self-harm;
- b) An individual is at risk of harming others;
- c) Members of the University community or the broader community may be at risk of harm; and/or
- d) Investigation or reporting to authorities where required by law (the following list of examples is not meant to be exhaustive: an incident involving a minor, obligations related to occupational health and safety, human rights legislation and/or community safety).

7.4. If a person requests that the University not act on a report of sexual violence, the University must weigh that person's request against the University's legal obligation to take action and provide a learning, living and work environment that is safe and free from sexual violence for all members of the University community.

8. General Provisions Regarding the Formal Report and Complaint Process

8.1 External reporting and recourse

This Policy and the formal complaint process do not prevent and are not intended to discourage an individual from also reporting sexual violence to the police and pursuing a complaint of sexual violence through the criminal justice system and/or from pursuing a complaint of sexual harassment with the Ontario Human Rights Tribunal pursuant to the Ontario Human Rights Code. The policy also does not prevent a unionized employee from pursuing a grievance under their collective agreement.

8.2 Choice not to file a formal complaint or not to investigate

- a) A person may choose not to file a formal complaint under Section 9 of this Policy. If a person decides not to file a formal complaint or requests that the University not investigate, the full range of supports and services outlined in this Policy remain available to that person. To the greatest extent possible, the University will respect the person's choice not to proceed with a formal complaint or request that the University not investigate.
- b) A Complainant who has filed a formal complaint may withdraw the complaint in writing at any time. However, the Sexual Violence Review Committee (SVRC)

may still initiate an investigation if it has reason to believe that a member of the University community or broader community may be at risk of harm, or if the Sexual Violence Review Committee determines that the University has a legal obligation to investigate. In such cases, subject to legal requirements, the person has the right not to participate in such an investigation. The SVRC will appoint an Investigator who will investigate the matter and provide the SVRC with a written confidential report containing the facts and information gathered during the investigation. The Sexual Violence Review Committee will consult with internal authorities on the investigation report and on the appropriate means for further addressing the matter.

8.3 Harassment and/or discrimination

Complaints of harassment and/or discrimination that do not involve sexual violence will be addressed under the Carleton University Human Rights Policies and Procedures or other workplace harassment/violence prevention policies as appropriate.

8.4 Support person

The Complainant or the Respondent can be accompanied by a support person of their choice at any time during the formal complaint process outlined in this Policy. The support person may include a friend, family member, and employee union representative. The support person may not be person who is a witness in the complaint process. The support person may provide encouragement or other emotional or moral support and may accompany the Complainant or Respondent to meetings. The support person's role is not to act or speak on behalf of the Complainant or Respondent. Representations (both oral and written) must come directly from the Complainant and Respondent. The support person must also agree in writing to maintain confidentiality in accordance with this Policy. Parties will also be offered access to a support person as follows:

- a) The Complainant may wish to access the Sexual Assault Services Coordinator to assist with navigating the provisions of this Policy.
- b) Where the Respondent is a student, they may wish to contact Ombuds Services or the Manager of Student Care to assist with navigating the provisions of this Policy.

8.5 Confidentiality

In addition to the provisions on confidentiality contained in paragraph 7 of this Policy, when a formal complaint is filed under this Policy, the following applies:

- a) Confidentiality of information disclosed at any time pursuant to this Policy is to be maintained to the extent possible, consistent with the University's need to respond appropriately to the situation and to the safety of members of the University community. This means that information about the situation may be disclosed as provided for in this Policy only to those who need to know in order to investigate and/or address the formal complaint.
- b) To ensure procedural fairness while a formal complaint process is underway, the Complainant, the Respondent and others who may have knowledge of the matter, including a support person, must maintain confidentiality in accordance with this Policy and not make public statements (for example: media, public and/or social media statements) that may jeopardize the proper handling of the matter. The confidentiality obligations during the complaint process do not prevent a person from seeking counselling, treatment, support services or from speaking to friends and family for support. Any questions regarding confidentiality obligations under this Policy can be clarified by contacting the individual who receives the formal complaint.
- c) Information disclosed by a person during an alternative resolution mediation under this Policy is without prejudice to that person and cannot be used during subsequent steps in handling the matter or in the formal complaint process under this Policy. Any person conducting an alternative resolution mediation of a complaint cannot be called to testify in a subsequent proceeding in relation to information disclosed during alternative resolution mediation, unless ordered or compelled by a court, tribunal or arbitrator.
- d) Documents and information related to a formal complaint, including the written formal complaint, written responses, witness statements, investigation notes and reports, and documents related to the formal complaint and its investigation will be securely maintained by Student Affairs or Human Resources as appropriate (see section 9.1 below).

8.6 Timelines and Timely Progress Updates Provided to Parties

The intention of this Policy is for the complaint process and each of its steps to be completed as expeditiously as practicable without compromising appropriate procedural fairness for all parties. The timelines mentioned in this Policy are meant to ensure that the matters are dealt with in a timely fashion. There may be, in compelling circumstances, reasons to extend a timeline. In such cases, where the request is in good faith and the extension does not prejudice or harm those involved in the complaint, extensions may be granted. It can be difficult to determine

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appropriate timelines for the resolution, investigation or a final disposition with respect to a formal complaint. Therefore, where no timelines are mentioned in this Policy, the intention is always to use a reasonable time period and to act as expeditiously as possible in light of the nature and complexity of the circumstances of the complaint and in light of other circumstances that may arise during the process that are beyond a party's reasonable control.

The Parties will receive regular updates on the progress of their case, estimated timeframes and any delays related to the matter. The types and frequency of these updates will be determined through discussion with each party.

8.7 Applicable collective agreements

The formal complaint process provided in this Policy, as it affects any unionized employees shall be construed and applied consistently with any relevant collective agreement. This policy does not abrogate any collective agreement protections to employees.

8.8 Conflict of Interest

If a University official has a real or apparent conflict of interest in a particular matter or there is a reasonable apprehension of bias, then that individual will not continue their involvement in the matter and the University will appoint an appropriate individual to act in that role for the purposes of that matter.

8.9 No Prosecution of Minor Drug and Alcohol Offences

The University recognizes that some individuals may be hesitant to disclose or report sexual violence in cases where they have been drinking under age or were using drugs at the time the sexual violence took place. A complainant acting in good faith who discloses or reports sexual violence will not be subject to actions for violations of university policies related to drug and alcohol use at the time the sexual violence took place.

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8.10 Alternative Resolution

In appropriate circumstances, a Complainant may be willing to resolve the matter before an investigation is commenced or completed, or before a decision is made by the SVRC. A Respondent could also initiate an alternative resolution process by notifying Equity Services. Equity Services will follow-up with the complainant and respondent to determine their willingness to participate in an alternative resolution

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process. For it to be a meaningful process, participants must engage voluntarily and remain free from reprisal. At any stage during the process, either the complainant or the respondent may indicate they would like the complaint to move to or resume the investigation and decision-making process. Examples of alternative resolution include mediation/facilitation, restorative justice, education or similar methods.

If the Complainant and Respondent are able to reach a resolution, a written record of the resolution will be prepared by Equity Services to be signed by both parties. The signed resolution will be kept in Equity Services. A copy of the signed agreement will be provided to the Complainant and Respondent, and may be provided to relevant university administrators if it is required to implement the terms of resolution. If there is a failure to comply with the terms of a resolution, the complaint may be moved to an investigation and decision-making process.

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8.11 Procedural Fairness

The University has a duty of procedural fairness to the parties with respect to the process by which investigations and decisions are made that may result in findings of sexual violence and may potentially impose serious consequences against a member of the University community who has engaged in such conduct. The basic requirements of procedural fairness is that a person against whom allegations are made, must know the allegations and evidence against them, and must be given the opportunity to answer prior to a decision being made. Further to the right to know, Complainants and Respondents will also have notice of the investigation and decision making process, and will have the matter decided by impartial decision makers. If credibility is at issue, Complainants and Respondents may appear in person and make oral representations to a decision maker, and comment and ask questions with respect to the evidence in accordance with this policy. The duty to be fair is context-specific, for example, the more serious the consequences contemplated, the higher the level of fairness. As such, the university reserves the right to adjust the process to ensure procedural fairness in accordance with the facts of the individual case with notice to the Complainant and the Respondent.

8.88.12 Interim measures

In some circumstances, it may be necessary to implement interim measures, which are temporary measures put in place to protect the parties and the community during the process. Interim measures may be implemented as part of accommodations, during the formal complaint process and pending a final decision. Where Interim measures are necessary, the University will seek to implement the least disruptive measures that still promote safety and security. Such measures are without prejudice to the ultimate outcome of the complaint process and are not intended to be disciplinary in nature. The Sexual Violence Review Committee can review the implementation of interim measures to ensure the measures are appropriate in the

circumstances. A party may request modifications to Interim Measures and make a written submission in support of their request to the SVRC for its consideration. All requests for modification will be considered in relation to the circumstances of the individual case and in relation to the University community including its safety. A non-exhaustive list of examples of such interim measures is outlined in paragraph 6.5 (a) of this Policy. Additional examples of Interim Measures that might be considered include:

- Changes within university housing if the parties are residents
- Restrictions to access campus or part of campus
- No contact/communication orders
- Employment/workplace restrictions
- Changes to class and/or section enrollments

Non-compliance with the interim measures may result in additional measures being imposed and/or discipline.

9. Formal Complaints Process

9.1. Filing and initiating a formal complaint

- a) The Director of Student Affairs (or designate) is responsible for receiving (in writing) formal complaints of sexual violence related to students. The ~~Director of Employee and Manager~~, Labour Relations (or designate) is responsible for receiving formal complaints related to all other groups. In the case where the Respondent is both a student and an employee, the complaint may be submitted to either of these two parties but will be jointly received. Only a person who reports experiencing sexual violence (the "Complainant") can choose to file a formal complaint under this Policy.
- b) A formal complaint can be filed if the Respondent is a member of the University community and was a member of the University community at the time of the incidents alleged in the formal complaint.
- c) Jurisdictional or other legal considerations may arise (such as an active police investigation) where the formal complaint process in this Policy may be suspended. In addition, the University does not have jurisdiction to address allegation made against a person who is not a member of the University Community. However, in event of such allegations, the University will provide support to complainants and may be able to take measures such as restricting access to campus by the person against whom the allegations are made

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- d) A formal complaint must set out in writing the name of the Respondent, the nature and the details of the circumstances, including detailed facts, specific dates and names of potential witnesses. The person receiving the formal complaint will acknowledge receipt, review it and if necessary, seek clarification from the Complainant on the information it contains.

9.2. Sexual Violence Review Committee (SVRC) Initial assessment

- a) The complaint will be provided to the Sexual Violence Review Committee. The SVRC will assess the formal complaint and determine whether the conduct forming the basis of the complaint appears to fall within the definition of sexual violence as set out in this Policy.
- b) If the SVRC considers that the conduct in question appears to fall within the definition of sexual violence as set out in Section 4 of this Policy, they will appoint an Investigator pursuant to paragraph 9.4(a) of this Policy and inform the Complainant and Respondent in writing.
- c) If the SVRC considers that the conduct does not fall within the definition of sexual violence as set out in this Policy, they will convey this assessment in writing to the Complainant and inform the Complainant of their right to request a review under 9.3 of this Policy, and will provide the applicable timelines and procedures for requesting this review. In these cases the SVRC may also refer the Complainant to another University policy or office as may be applicable or legally required.

9.3. Review of the initial assessment

A request to review the Sexual Violence Review Committee's initial assessment of the complaint can be made only if it has determined that the complaint falls outside the definition of sexual violence as set out in this Policy. If the Complainant disagrees with the determination that the complaint is outside the definition of sexual violence as set out in this Policy, then the Complainant may ask the University Secretary to review the assessment, if the Complainant submits the request in writing within 10 business days after the date of determination. Upon review, the University Secretary's decision is final and will be communicated to the Complainant in writing.

9.4. Investigation

- a) Where the complaint is within the definition of sexual violence as set out in this Policy, the Sexual Violence Review Committee will appoint an

Investigator who has competence in conducting investigations related to allegations of sexual violence, to investigate the complaint.

- b) Where the Respondent is a unionized employee, the employee shall have all applicable rights to union representation during any investigatory meetings with the Employer. As per the relevant collective agreement, the ~~Director of Employee/Manager of~~ Labour Relations will also inform the Manager/Supervisor of the Respondent of the investigation.
- c) ~~Once an Investigator has been appointed, either the~~ ~~Director of Employee and~~ ~~Labour Relations or the~~ ~~Director of Student Affairs~~ will send a written notice to the Respondent and the Complainant informing both of the formal complaint ~~and~~, enclosing a copy of the complaint. ~~The Respondent and Complainant and will be~~ ~~informing~~ ~~them~~ of the name of the Investigator ~~as soon as possible~~. ~~The~~ notice will indicate that the Respondent will have an opportunity to provide the Investigator with a written response to the complaint. Both the Complainant and the Respondent will be provided with a copy of the formal complaint process under this Policy.
- d) The investigation will be done in a timely fashion. The Investigator will ask the Respondent to respond in writing to the formal complaint. If the Respondent does not provide a written response within the time requested, the investigation will proceed in the absence of a response.
- e) The Investigator will then send the Respondent's response to the Complainant, who can submit a written reply within the time requested by the Investigator. If no written reply is provided within the time requested, the Investigator will proceed in the absence of such reply. The Respondent will receive a copy of the reply, if any.
- f) The Investigator will examine all of the information submitted by the parties as well as any other information gathered during the investigation and conduct all interviews in a fair, impartial and professional manner. The Investigator will remind the individuals of the requirement to protect and keep confidential the personal information of the persons involved in the investigation.
- g) The Investigator will keep the Sexual Violence Review Committee informed on the status of the investigation at regular intervals or at the request of the Review Committee. The officers charged with receiving the complaint will keep the Complainant and the Respondent informed on the status of the complaint and of the investigation.

9.5. Investigation report

Upon completion of the investigation, the Investigator will send a written confidential report containing the facts and information gathered during the investigation to the Sexual Violence Review Committee including any responses of the Respondent and Complainant. The investigation report will be provided to the Complainant and to the Respondent with a reminder of the need to protect and keep confidential the personal information of those involved in the investigation and to avoid acts of reprisal. The university considers reprisal at any stage to be a serious offence. A breach of confidentiality by any person with respect to a complaint may also constitute reprisal.

9.6. Review of report and committee meeting

- a) After the report and ~~responses~~~~replies~~ are provided to the Sexual Violence Review Committee (SVRC), the Chair will convene meeting(s) ~~and send a written notice of the meeting(s) to the Complainant and the Respondent as appropriate~~. The notice will indicate the time, place and purpose of the meeting(s) as well as include a statement that if the Complainant or the Respondent does not attend or participate, the SVRC may proceed in their absence. The Complainant or the Respondent may request accommodation from the SVRC regarding their participation at a meeting.
- b) The Sexual Violence Review Committee meeting(s) will be conducted in person and in camera. However, the support person(s) referred to in paragraph 8.4 of this Policy can attend as an observer(s) only and may not speak on behalf of or represent the Complainant or the Respondent.
- c) The Complainant and the Respondent will be afforded the opportunity to make written and oral representations to the SVRC, including representations on the investigation report and on any potential consequences or measures. The Complainant and the Respondent are expected to speak for themselves. Members of the SVRC may ask questions of the Complainant and the Respondent and may invite witnesses as they deem necessary.
- d) The ~~Review Committee~~SVRC will ensure that the Complainant and the Respondent are given an opportunity to know and respond to information that it intends to rely upon in making the decisions and recommendations.

9.7. Decision of the Sexual Violence Review Committee (SVRC)

a) Upon reviewing and considering the final investigation report and any representations made by the Complainant and the Respondent or other person at its meeting with them, the Sexual Violence Review Committee will:

- Decide whether the investigation was fair and conducted properly;
- Decide whether the complaint is founded and the role of the Respondent;
- Recommend consequences or measures it considers appropriate to remedy or mitigate any academic or employment harm or disadvantage arising from the complaint, to prevent its reoccurrence and to ensure the safety of all individuals.

b) The decisions of the Sexual Violence Review Committee and the reasons in support of it must be in writing and be delivered to the Complainant and Respondent. The Freedom of Information and Protection of Privacy Act (FIPPA), prohibits the disclosure of the details of any disciplinary actions or consequences taken against the Respondent. The Complainant has a right to know the outcome of the investigation but not the details of the discipline unless sharing that information is permitted by FIPPA for health and safety reasons. In the case of a unionized employee, the decision of the SVRC will also be communicated to the appropriate Manager/Supervisor who will make a recommendation on any consequences, measures, and/or disciplinary action to the appropriate Vice-President. If the Committee decides that the complaint is founded and the Respondent involved was a unionized employee, the SVRC will also provide the appropriate Manager/Supervisor with a copy of the investigation report.

c) Consequences or measures in response to sexual violence will depend on the circumstances, on the severity of the conduct, on any mitigating factors and on applicable collective agreements or other University policies. If a complaint of sexual violence is substantiated, consideration will be given to preventing its reoccurrence in the future, to correcting the negative impact of the incident on the Complainant and to ensuring or enhancing the safety of all individuals. The following list provides examples of consequences and measures and is not meant to be exhaustive nor necessarily represent a progression of consequences or measures:

- A letter of apology;
- Attendance at educational sessions on the impact of sexual violence;

- Attendance at coaching sessions to improve communication or conflict resolution skills;
- Restricted or prohibited access to the University campus and/or services;
- For employees discipline up to and including termination;
- For students discipline up to and including suspension or ban from the University, and
- In circumstances where the Respondent is a unionized employee, the appropriate Manager/Supervisor under the applicable collective agreement will decide on consequences or measures and on the imposition of any disciplinary measures. Disciplinary processes and measures shall be in accordance with the collective agreement applicable to the Respondent employee.

10. Appeal Process

10.1 Appeal

An appeal is not an opportunity for the Complainant or the Respondent to repeat the information provided to the Sexual Violence Review Committee. The right to an appeal is not automatic and an appeal will only be considered if it meets the following requirements:

- a) The appeal is of a final decision of the Sexual Violence Review Committee;
- b) The appeal is submitted by either the Complainant or the Respondent;
- c) The appeal must be made within ~~10-30 business~~ days after the date of the final decision that is the subject of the appeal;
- d) The appeal includes the reasons for the appeal, the reasons why the appeal should be granted, the arguments in support of the appeal and the outcome sought;
- e) The appeal must demonstrate that:
 - There has been a fundamental procedural error in the making of the final decision and that such error has caused or will cause actual prejudice to the person seeking the appeal, or
 - There are new facts relevant to the final decision that were not available and could not have been provided to the Sexual Violence Review

Committee.

The following is a non-exhaustive list of some examples of situations where an appeal would not meet the requirements of this paragraph:

- The appeal asks for review of a consequence or measure that has not yet been finally decided or approved;
- The appeal repeats arguments made at the meeting of the review committee or in written submissions and does not provide any new information relevant to the final decision;
- The appeal is based only on a disagreement with a finding of fact, including findings made about the credibility of witnesses;
- The appeal raises new arguments that were not made, but could have been made at the Sexual Violence Review Committee meeting or in written submissions or to the appropriate Manager/Supervisor or University governing body, and
- The appeal amounts to a mere speculation or a bald statement of a procedural error causing prejudice and does not provide detailed and convincing information to establish the error and to establish a link between the error and actual prejudice or a reasonable expectation of prejudice to the person seeking the appeal.

10.2

The appeal must be made to the University Secretary. Following receipt of the appeal, the University Secretary will convene the Appeal Board. The Appeal Board consists of the Vice-President Finance and Administration, the Associate Vice President of Human Resources and the Provost and Vice President Academic or their delegates. The Appeal Board will be chaired by a person external to the University Community who has the appropriate legal training. All members of the Appeal Board will receive sexual violence and procedural fairness training.

10.3

The appeal process is conducted in writing. The Complainant or Respondent, as the case may be, does not need to respond to the appeal unless the Appeal Board sends a letter requesting them to do so.

10.4

The Appeal Board reviews the appeal, determines whether the appeal meets the requirements of paragraph 10.1 of this Policy. Following review of the written submissions, the Appeal Board may in its sole discretion convene a hearing to determine the matter. All decisions of the Appeal Board are final.

11. Review of Policy

11.1 Review

- a) Equity Services OVPSE is responsible for the review and implementation of this Policy. This Policy will be reviewed every three years.

- b) Revisions to the Policy will be sent for comment to the student associations, unions and employee groups, to the committee on the prevention of sexual violence referred to in Section 8 of this Policy and any other stakeholder, as determined by Equity Services OVPSE, to ensure the provision and consideration of input from a diverse selection of students, faculty and employees who are reflective of the university community.

11.2 Amendments

- a) Amendments made to this Policy require the approval of the Board of Governors.

- b) Updates to the following information contained in this Policy do not require additional approval.
 - The supports and services referred to paragraph 6.2 of this Policy;
 - The identity of officials, offices, and departments at the University that provide information about supports, services and accommodation or that receive reports or formal complaints.

- c) A copy of this Policy as approved and amended is posted on the University's website.

12 Related Policies and Procedures

12.1 Related policies include:

- a) Carleton Human Rights Policies and Procedures
- b) Carleton Student Rights and Responsibilities Policy
- c) [Workplace Harassment Prevention Policy](#)
- d) [Carleton Workplace Violence Prevention Policy](#)
- e) Residence Contract