

POLICY FOR THE PREVENTION OF SEXUAL VIOLENCE

Approved by the Board of Governors: December 17, 2018

For situations requiring immediate emergency assistance call Security at 819-822-9711 and/or 711 or 911

- For situations requiring immediate medical attention call 911
 - For situations requiring support for survivors call the Sexual Aggression Response Coordinator at 819-822-9600 ext. 2695
-

PREAMBLE

Bishop's University ("Bishop's") is committed to fostering a collegial learning and work environment that is free from sexual violence; one where students, staff, librarians, faculty and managers (the "University Community") are treated with equity, respect, and dignity.

Bishop's considers that sexual violence, in any form it may take, is an infringement of a person's dignity and physical and psychological integrity. Bishop's recognizes its responsibility of creating a climate dedicated to excellence, where learning, teaching, and research can thrive. Bishop's also believes that the key to fostering a sexual violence-free environment lies in the shared responsibility of all individual members of the community.

Through this Policy on the Prevention of Sexual Violence (the "Policy"), every person who is part of the University Community, regardless of his or her role, is called upon to play a part in creating and promoting an environment that is free from sexual violence.

This Policy is to be interpreted in a manner that is consistent with the *Act to Prevent and Fight Sexual Violence in Higher Education Institutions*, R.S.Q., chapter P-22.1.

Acts of sexual violence are prohibited by law and constitute University offences that may be grounds for sanctions. Bishop's will address incidents of sexual violence with prompt action and will sanction such conduct by measures deemed proportional and appropriate in the circumstances, up to and including expulsion (for a student) and dismissal (for a member of faculty, staff or management).

Nothing in this Policy is intended to discourage or prevent a person from seeking assistance or pursuing a complaint with external authorities such as the police, the courts or administrative tribunals.

1. SCOPE AND APPLICATION

All members of the University Community and all persons present on campus for whatever reason are responsible for contributing, through their conduct, to creating an environment free of sexual violence.

This Policy therefore applies to all individuals within the University Community, including students, faculty, librarians, staff, managers, volunteers, as well as any third party having contact with the University, including visitors and clients. All outside contractors hired by Bishop's will abide by, and their operations and practices will conform to, this Policy.

Incidents of sexual violence and cyber sexual violence are governed by this Policy where they occur in a University context, meaning on University premises or on work or study sites under the University's control, or during the course of a Bishop's-sponsored activity. Conduct that occurs outside of the University' premises may also be deemed to have occurred in a University context and be governed by this Policy, where that conduct has a link to the University, affects a member of the University community and impacts on the University learning, working or living environment.

2. POLICY OBJECTIVES AND FUNDAMENTAL PRINCIPLES

2.1 Purpose

This Policy seeks to:

- Establish appropriate guidelines and procedures to foster a learning and work environment free from all forms of sexual violence;
- Raise awareness about sexual violence and inform members of the University Community about their rights, responsibilities and recourses;
- Provide assistance mechanisms to ensure that survivors of sexual violence receive appropriate support and perpetrators stop their behaviour;
- Establish a process to determine whether sexual violence has occurred and to impose appropriate sanctions on perpetrators.

For greater clarity, this Policy creates a network of support for survivors of sexual violence, ensures a coordinated and caring response to survivors of sexual violence and commits to promoting and maintaining a safe campus, free from sexual violence.

2.2 Intimate Relationships

Because intimate relationships formed between people with unequal institutional power are prone to coercion, conflict of interest, favoritism, and exploitation, the

University strongly discourages any member of its community from entering into a romantic, dating, or sexual relationship, regardless of whether there is a supervisory or evaluative relationship, between two parties of unequal power, such as between professors or coaches and students.

Professors, coaches, managers and staff who work closely with students must not abuse their authority or compromise their important role in the lives of their students.

To protect the integrity of the University Community academic and work environment, Bishop's requires that if such a relationship exists, the person with the greater power must advise the Human Resources Department and give up any supervisory or evaluative authority over the other person in the relationship.

2.3 Shared Responsibilities

2.3.1 Secretary General's Office

The Secretary General's Office is responsible for the application of the policy in accordance with policies, regulations and agreements governing work and academic relations at Bishop's. The Secretary General's Office will inform the parties to a complaint of the decision on the complaint, as well as the Human Resource Department where the complaint involves faculty or staff, or the Dean of Student Affairs where the complaint involves students.

2.3.2 Managers

A manager having staff under his/her supervision will manage in a preventive way, so as to avoid sexual misconduct within his/her team to the extent possible. A manager is responsible for monitoring sexual misconduct and for acting quickly to solve it before it degenerates or gives rise to behaviour that can potentially be qualified as sexual violence. He or she may consult the Secretary General's Office or the Human Resources Department, if necessary, to seek support and advice on how best to manage the situation.

2.3.3 Faculty, Librarians, and Contract Faculty

Members of the faculty should manage classroom interactions in a preventive way to avoid sexual misconduct within the classroom. They are responsible for monitoring sexual misconduct and acting quickly to ensure that it does not result in behaviour that could potentially be qualified as sexual violence. A faculty member may consult the Secretary General's Office or the Human Resources Department or the Dean of Student Affairs, if necessary, to seek support and advice on how to best manage the situation.

2.3.4 Staff

As members of the Bishop's community, staff share in the responsibility to ensure a learning and work environment free of sexual violence.

2.3.5 Human Resources Department

The Human Resources Department acts as counsel for faculty, staff and managers. It intervenes in a preventive way to resolve conflict and to prevent it from degenerating. In cases where a situation of conflict cannot be resolved, the HR Department will direct the persons involved to the Secretary General's Office.

It is the responsibility of the Human Resources Department to coordinate training and communication on sexual violence for faculty, librarians, managers and staff.

2.3.6 Dean of Student Affairs and Academic Deans

The Dean of Student Affairs and the Academic Deans are responsible for managing sexual misconduct involving students. They intervene in a preventive way to resolve misconduct before it degenerates. They will direct those involved to appropriate resources. The Dean of Student Affairs is responsible for coordinating the Sexual Violence Support Centre.

2.3.7 Students and Student's Representative Council (SRC)

All Bishop's students are responsible for helping to foster a learning environment free from any type of sexual violence. The SRC collaborates in the enforcement of the Policy, in particular by supporting awareness activities and by contacting the Dean of Student Affairs or the appropriate Academic Dean to seek advice and support to resolve the sexual misconduct.

2.3.8 Committee for the Prevention of Harassment and Sexual violence

The Committee shall participate in the review of this policy one (1) year after its initial adoption, and every five (5) years thereafter. The committee is formed under Section 8 of the *Policy on the Prevention of Harassment*.

2.3.9 Sexual Violence Support Centre

The Sexual Violence Support Centre (“SVSC”) is the primary resource for response and support in the case of sexual violence as well as coordinating all education, training and communication to the community regarding sexual violence as set out in this policy.

In addition, the SVSC shall maintain relevant records and denormalized statistics for the University pertaining to cases of sexual violence that it responds to under this policy.

2.3.10 Assessor

The General Counsel of the University will act as the Assessor. When the General Counsel determines that the investigation should be conducted by an external party, the complaint will be transferred. In cases involving students, the General Counsel will consult the Dean of Student Affairs to determine the best approach. The Assessor is responsible for investigating and resolving formal Complaints.

2.4 Fair and Equitable Treatment in Situations of Sexual violence

Situations of sexual violence will be addressed and treated in accordance with the fundamental principles of fairness and equity owed to all involved parties, and with a focus on putting an end to the unwanted behaviour.

2.5 Protection of persons involved

This Policy prohibits reprisals against an individual who has made a good faith complaint, sought advice, acted as a witness, or provided information regarding an incident of sexual violence.

3. DEFINITIONS

“Sexual Violence” means any violence, physical or psychological, carried out through sexual means or by targeting sexuality. This includes, but is not limited to sexual assault, sexual harassment, stalking, indecent exposure, voyeurism, degrading sexual imagery, distribution of sexual images or video of a community member without their

consent, and cyber harassment or cyber stalking of a sexual nature or related to a person's sexual orientation, gender identity and/or presentation.

"Sexual Assault" is an offence under the Criminal Code of Canada. It is illegal. Sexual assault is any unwanted act of a sexual nature imposed by one person upon another and includes such activities as kissing, fondling, oral or anal sex, intercourse, or other forms of penetration, without consent. Sexual assault can occur between strangers, acquaintances or be perpetrated by someone known to the survivor/victim. It can also occur in a dating relationship, between spouses, or in any other relationship.

"Sexual Harassment" is a course of unwanted remarks, behaviours, innuendo, taunting or communications of a sexual nature and/or a course of unwanted remarks, behaviours or communications based on gender, gender identity, and/or sexual orientation where the person responsible for the remarks, behaviours or communications knows or ought reasonably to know that these are unwelcome. Sexual harassment may consist of unwanted attention of a sexual nature such as personal questions about one's sex life, unwelcome sexual invitations or requests, or unwelcome remarks about someone's appearance. Sexual harassment may also consist of unwelcome remarks based on gender, gender identity or sexual orientation where such remarks may not be of a sexual nature but are nevertheless demeaning such as derogatory gender based jokes or comments. A single serious incidence of such behaviour may constitute harassment if it has the same consequences and if it produces a lasting harmful effect on the survivor/victim.

"Sexual Misconduct" is any unwelcome behaviour of a sexual nature.

"Consent" is voluntary and continuous agreement to engage in sexual activity. Bishop's University and its members are bound and guided by the Criminal Code of Canada which defines consent as the voluntary agreement of a person to engage in the sexual activity in question.

4. ADMINISTRATORS OF THIS POLICY

The co-administration of the Policy on the Prevention of Sexual Violence falls under the Secretary General's Office and the Dean of Student Affairs. All expenses relating to the implementation and the administration of this policy should be pre-approved by the Secretary General or the Dean of Student Affairs.

5. INFORMAL RESOLUTION OF CONCERNS OF SEXUAL VIOLENCE

5.1 Consultation with the Sexual Violence Support Centre

Any member of the University Community who has a concern about an incident or possible incident of sexual violence/misconduct or believes that he or she has been a victim of sexual violence/misconduct, as defined in Article 3 of this Policy, may seek advice or obtain information by contacting the Sexual Violence Support Centre.

The SVSC will meet with the individual as soon as possible and seek to identify the nature and scope of the problem and possible solutions. The informal resolution may take the form of an agreement between the parties, mediation or other alternative resolution process.

A Community member aware of a non-immediate incident of sexual assault should encourage the survivor/victim to contact the Sexual Aggression Response Coordinator (“SARC”).

Any member of the staff or faculty who is made aware of an incidence of sexual violence is encouraged to contact the SARC in order to determine the best assistance to provide to the survivor/victim.

6. FORMAL RESOLUTION OF CONCERNS OF SEXUAL VIOLENCE

A report/complaint can be made to the police at any time with the goal of pursuing criminal charges under the *Criminal Code of Canada*. Where the University believes a criminal act has occurred and the community to be at risk, the University may report the incident(s) to the police.

6.1 Initiating a Complaint under the Policy

A formal complaint may be filed in conformity with the procedures outlined below.

A formal complaint of sexual violence (the “Complaint”) must be submitted to the Assessor using the Complaint Form provided.

By filing a Complaint, the Complainant authorizes the disclosure of its content and of his or her identity to the Respondent and to any other person involved in handling the Complaint. Those receiving the disclosure shall keep the information confidential.

The Assessor shall refuse to take any further action where:

- ◆ a Complaint appears abusive or patently unfounded;
- ◆ a Complaint is formulated with the intent to harm or to mislead;

The Assessor, after consultation with the Complainant, may refuse to take further action where:

- ◆ another recourse has been exercised in relation to the incident(s) that form(s) the basis of the Complaint.

The Complaint can be filed at any time after the sexual violence event.

The Sexual Assault Response Coordinator shall assist survivors in understanding each of these options and in ensuring that they have all the information that they need in order to make an appropriate decision on next steps.

6.2 Immediate Measures

When a report or disclosure has been made, the appropriate University authority will consult with the Complainant and undertake a safety evaluation to identify and implement immediate reasonable measures necessary to protect and support the Complainant and the University Community in accordance with applicable Bishop's policies such as the Student Code of Conduct. Immediate measures may impact the Respondent and the Complainant. These preventive measures must be implemented within a period not exceeding seven (7) days.

6.3 Investigation and Resolution of a Complaint

The Assessor provides a copy of the Complaint form to the Respondent and invites the Respondent to respond to the Complaint.

Upon receiving the response, the Assessor follows up with the Complainant and may request additional information.

The Assessor also provides both parties with a copy of this Policy or the link to the webpage where it can be found.

Both the Complainant and the Respondent will be invited in writing to respect the confidential nature of the Complaint file.

A Complaint may be withdrawn at any time by the Complainant. The withdrawal of the Complaint shall be evidenced in writing and signed by the Complainant.

The Assessor shall investigate the Complaint fairly and objectively, using such methods as are deemed appropriate in the circumstances, subject to the principles of procedural fairness applicable in a University context, which might include:

- Interviewing the Complainant and Respondent individually and inviting them to submit any further written submissions or documentation in support of their respective viewpoints;
- Where appropriate, inviting the parties to submit the names of witnesses or other individuals with information that may be useful in the circumstances.

In addition, the Assessor may use the following methods as appropriate:

- Seeking information from third parties, including meeting privately with any witnesses or other individuals suggested by the parties, as may be applicable and as relevant to the resolution of the Complaint ;
- Gathering documents relevant to the Complaint.

Witnesses can only be interviewed in reference to the Complaint, not as character witnesses.

All members of the University Community, including the parties to the Complaint, shall cooperate with the Assessor and respond in a timely fashion to requests for meetings or information. They shall respect the confidentiality of all information shared during the investigation.

In cases where the Complainant or Respondent fails to cooperate with the investigation process in a timely manner without appropriate justification, the Assessor may complete the investigation without the participation of the party who has failed to cooperate.

No later than 90 days after receiving the Complaint, the Assessor shall report in writing the results and recommendation of the investigation to the Secretary General and to the Dean of Student Affairs when students are involved in the complaint, and provide a copy to the Complainant and the Respondent under confidential cover.

The report shall be in writing and may contain the following details as appropriate:

- Date the report was drafted;
- Identification of the Complainant and the Respondent;
- Description of the event or events which led to the Complaint and the facts alleged;
- The findings of fact made and any other information relevant to the conclusions reached;
- The Assessor's determination of whether the Complaint is well founded, on a balance of probabilities, with reasons explaining the determination;

- Recommendations, as may be appropriate, to ensure the resolution of the event or events that led to the Complaint;
- Recommendations, if any, of such measures as may be appropriate to prevent future incidents of sexual violence and improve the University environment;
- Recommendations on the disciplinary action or sanctions, if any, that should be taken.

The decision of the Assessor is final.

During investigation, the Assessor has the authority to take appropriate preventive measures and actions to protect the security of the Parties.

6.4 Remedial action and disciplinary measures

If the Complaint is determined to be well-founded, the Secretary General's Office shall, in the case of an employee forward the file to the Principal and/or the Human Resources Department, or in the case of a respondent who is a student, to the Dean of Student Affairs, who may take such remedial or preventive measures as may be necessary, depending on the circumstances and to the extent possible, to resolve or address the Complaint.

The Principal, the Vice-Principal Academic, the immediate supervisor or the Dean of Student Affairs shall have authority to take disciplinary action as required against the Respondent in accordance with Bishop's policies, regulations and collective agreements, and may consult with the appropriate administrative offices (e.g. Academic, Human Resources, Student Affairs, etc.) before deciding to impose a disciplinary measure or take any other form of remedial action.

The objective of the disciplinary action or sanction is to deter and prevent the continuation or repetition of the conduct, and may include a range of measures, such as, but not limited to, one or more of the following:

- A directive to the Respondent to cease the behaviour, where a failure to comply may lead to further penalty;
- A program of education or counseling to be undertaken by the Respondent;
- A directive to the Respondent to make a written apology to the Complainant;
- Suspension;
- Dismissal or expulsion.

Any violation of the “Policy” can lead to administrative or disciplinary measures including termination of employment or expulsion of students.

7. RIGHTS

7.1 Right to be accompanied

In order to safeguard the rights of all concerned, any person who avails himself or herself of this Policy and any person involved in a process governed by this Policy has the right to be accompanied by a member of the Bishop’s Community of his or her choosing.

7.2 Right to confidentiality

The University recognizes the importance of confidentiality in the handling of inquiries and Complaints of sexual violence and will make every reasonable effort to balance confidentiality with the legal responsibility of the University.

Records of materials relating to formal complaints will be handled in a confidential manner and will be stored in a secure location in the Secretary General’s Office during and after the treatment of the matter. Access to these records will be limited to the Assessor, Secretary General or the Dean of Student Affairs, the Principal, and to those required to have access under this Policy or when required by law.

University administrators and any other member of the Bishop’s community who, by virtue of their position or involvement in the treatment of an incident of sexual violence, are privy to information or in possession of documentation pertaining to the incident shall hold such information in strict confidence. This shall include refraining from discussing or releasing information in any form, beyond that required to fulfill the aims of this Policy and to manage the risk of harm to others, or as required by law.

8. NOTICES

For members of the Bishop’s community, notice is deemed to have been given by using the electronic address provided by the University.

9. RETURN OF DOCUMENTS

Once a decision on an incident of sexual violence is rendered, a party may request the return of original documents submitted. The Secretary General will return the original and retain a copy.

10. REVIEW

The overall responsibility for the implementation and recommended amendments to this Policy shall rest with the Secretary General. This Policy will be reviewed by the Committee

for the Prevention of Harassment and Sexual Violence and representatives from the Sexual Violence Support Centre, the General Counsel and a representative of the SRC one (1) year after its initial adoption, and every five (5) years thereafter. The Committee shall make any necessary recommendations to the Secretary General. This Policy may be reviewed from time to time as required by those responsible for its administration.