



ACADEMIC COUNCIL REPORT

SESSION:

Public
 Non-Public

ACTION REQUESTED:

Decision
 Consultation
 Information

TO: Academic Council

DATE: March 26, 2019

FROM: Olivia Petrie, Assistant Vice-President, Student Life

SUBJECT: Student Sexual Violence Policy and Procedures - [in person consultation]

ACADEMIC COUNCIL MANDATE:

Under the Policy Framework, consistent with the “Duty to Consult” under section 10(5) of the UOIT Act, Policy Owners must consult with Academic Council before presenting draft policy instruments to the approval authority for approval.

We submit this report and draft Student Sexual Violence Policy and Procedures (SSVPP) to request your consideration of the draft before it is presented to the Board of Governors for approval.

PURPOSE OF POLICY INSTRUMENT:

The SSVPP affirms the University’s commitment to preventing and addressing incidents of sexual violence, provides information about available supports and services for students affected by sexual violence, and sets out the procedures for responding to and addressing incidents of sexual violence involving students.

SUMMARY/RATIONALE OF KEY AMENDMENTS:

The Advisory Committee on Sexual Violence Prevention and Support was established in March 2018. The Committee is comprised of eight students, two faculty members, three staff members, one senior administrator, and is supported by two additional staff members. Part of its mandate is to review and recommend revisions to university policies on student sexual violence. In fulfilling this mandate, the Committee conducted

an initial review of the SSVPP through student consultations and online feedback in April and May 2018. Based on these consultations, the Committee undertook a full review of the policy through the summer and fall of 2018 and in December 2018 put forward a series of recommendations to the Provost to improve the effectiveness of the policy, which included:

- Clarifying definitions
- Explaining key roles
- Including an appeals process
- Ensuring the decision-maker has appropriate training
- Simplifying support and resolution processes
- Providing specific timelines for resolution and review processes
- Considering provisions for confidential* disclosures
- Clarifying interim measures, use of alcohol/drugs, confidentiality
- Limiting the scope of policy to students
- Re-organizing the policy to conform to the university's Policy Template

Following receipt of the Committee's report, the Provost asked the AVP Student Life to re-develop the SSVPP to address the recommendations that were put forward. The policy was re-drafted and reviewed by the Committee in early 2019 and is being put forward for community consultation through the month of March.

CONSULTATION:

1. **Student Feedback** – The student members of the Advisory Committee held a series of roundtables and forums in April 2018 and again in November 2018 to elicit feedback and suggestions on the policy, services and supports. In April 2018, the focus of the roundtables and forums was on the SSVPP itself. In November 2018, the focus turned to supports and services available, as well as the broader campus culture surrounding consent and sexual violence.
2. **Stakeholder Feedback** – The Advisory Committee met with staff from several offices through the summer and early fall to better understand existing processes and supports and to determine where improvements may be recommended. The consultations included:
 - Office of Campus Safety regarding investigation processes
 - Office of the University Counsel regarding the alternate resolution, decision-making and appeals processes
 - Student Mental Health Services regarding the role of the Support Worker
 - Human Resources and Student Engagement and Equity regarding training programs for students, faculty and staff at the university
3. **Community Feedback** – Through its website, the Advisory Committee initially received feedback and suggestions from students and other members of the community, including We Believe Survivors, a coalition of students, alumni, faculty members and community members, as well as a detailed assessment of the policy by OurTurn, a national student-led organization of student organizations working to end campus sexual violence.

Taken together, the consultations and submissions provided numerous insights and observations on how the SSVPP may be improved, as well as valuable suggestions on what resources and strategies may be implemented to support the policy. All of this feedback informed the recommendations that were put forward to the Provost and the policy recommendations have subsequently been incorporated into this new SSVPP. Advisory Committee appreciates the generosity of all those who have provided feedback, which has guided and informed the re-developed policy that is being put forward here.

COMPLIANCE WITH POLICY/LEGISLATION:

Bill 132 and the MTCU Act (2016) requires universities to have a policy that addresses student sexual violence that:

- Details how the University will respond to and address incidents and complaints
- Provides information on supports and accommodates for students affected by sexual violence
- Involves students in the development and review of the policy

NEXT STEPS:

Academic Council members can provide written comments by email to policy@uoit.ca. A full list of consultation and approval dates is as follows:

| Action | Reviewers | Meeting Date |
|------------------------|----------------------------------|-------------------------|
| Final Review | SV Advisory Committee | March 18, 2019 |
| Mandatory Consultation | Administrative Leadership Team | March 12, 2019 |
| Mandatory Consultation | Academic Council | March 26, 2019 |
| Online Consultation | Policy Consultation Notice Board | Last 2 weeks March 2019 |
| Policy Assessment | Policy Advisory Committee | April 3, 2019 |
| Deliberation | Audit & Finance Committee | April 15, 2019 |
| Approval | Board of Governors | April 24, 2019 |

SUPPORTING REFERENCE MATERIALS:

- Student Sexual Violence Policy and Procedures



| | |
|---------------------|--------------------------------------|
| Classification | LCG 1138 |
| Framework Category | Legal, Compliance and Governance |
| Approving Authority | Board of Governors |
| Policy Owner | Provost and Vice-President, Academic |
| Approval Date | DRAFT AMENDMENT FOR REVIEW |
| Review Date | |
| Supersedes | SSV Policy Dec 7, 2016 |

STUDENT SEXUAL VIOLENCE POLICY AND PROCEDURES

PURPOSE

1. This Policy affirms the University's commitment to preventing and addressing incidents of sexual violence, provides information about available supports and services for students affected by sexual violence, and sets out the procedures for responding to and addressing incidents of sexual violence involving students.

DEFINITIONS

2. For the purposes of this Policy the following definitions apply:

“Accommodations” means temporary arrangements that are made for a Student who has experienced Sexual Violence to assist in their recovery. Examples of Accommodations include safety planning, emergency bursaries, change in residence room, housing assistance, class or schedule changes, or other appropriate arrangements.

“Administrative Fairness” means that the procedures used in the investigation and decision making processes adhere to the following elements, in accordance with the University's [Fair Processes Policy](#):

- a) The Respondent knows what the issue is and receives enough information to provide a response;
- b) The Parties receive adequate notice;
- c) The decision making processes run in a timely fashion
- d) The decision making processes are managed in accordance with this Policy;
- e) The Respondent is supported or, where appropriate, has a right to representation; and
- f) The Respondent understands the reasons for a Decision.

“Balance of Probabilities” means a standard that must be met to determine whether a violation of the policy has occurred based on a finding that “it was more likely than not” that the offence at issue was committed by the student. This is a lower standard than beyond a reasonable doubt, but more than mere suspicion.

“Case Manager” means a university official assigned responsibility for coordinating all aspects of the Reporting, Investigation and Decision Making procedures under this Policy. The Case Manager will have training and expertise in the areas of Sexual Violence, trauma-informed approaches, and the impact of identities on an individual's experience of sexual violence.

“Consent” means the active, ongoing, informed and voluntary agreement to engage in physical contact or sexual activity. Consent cannot be given by someone who is incapacitated (such as by drugs or alcohol), unconscious, or otherwise unable to understand and voluntarily give consent.

“Complainant” means a student or other individual who brings a Report of Sexual Violence for formal or informal resolution.

“Disclosure” means providing information to a friend, peer leader or trusted faculty or staff member about an incident involving Sexual Violence and being referred to a Support Worker or other services for support and assistance. A Disclosure is separate from Reporting and students are not required to formally report an incident in order to obtain supports and services.

“Interim Measures” means temporary measures imposed on the Respondent designed to protect the safety of the Complainant and/or other individuals that are instituted at any point following the Reporting of an incident of Sexual Violence and prior to a determination being made under this Policy. Interim Measures are arranged by the Case Manager and takes into consideration the severity of the allegations and the Complainant’s desire to restrict access to disclosed information. Examples of Interim Measures include, without limitation, a communications or contact prohibition order, trespass or restricted access order, course or class rescheduling, suspension, exclusion from athletic or other extra-curricular, limiting access to services or facilities, or other safety measure.

“Investigator” means an individual assigned responsibility for conducting an investigation into a Report of Sexual Violence. The Investigator may be internal or external to the University, and must have training and experience in investigating Sexual Violence cases to serve as the Investigator.

“Respondent” means a student who is implicated in a Report of Sexual Violence.

“Sexual Assault” means a form of sexual violence that involves any kind of sexual contact with another person without their Consent or by force. It can include unwanted kissing, fondling, oral or anal sex, intercourse, or other forms of penetration, or any other unwanted act of a sexual nature.

“Sexual Harassment” means a form of sexual violence that involves course of vexatious comment, conduct or communication based on sex, sexual orientation, gender, gender identity or gender expression, or orientation, that is known or should have been known to be unwelcome.

“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, and includes Sexual Assault, Sexual Harassment, stalking, indecent exposure, voyeurism and sexual exploitation. (Further information on these and other forms of Sexual Violence can be found [online](#).)

“Sexual Violence Response Team” means a group of university officials who work with the Support Worker or the Case Manager to ensure that appropriate supports and Accommodations are provided to a Student who has experienced Sexual Violence. The team is comprised of the Support Worker and Case Manager, along with personnel from Student Mental Health Services, Office of Campus Safety, Student Accessibility Services, Campus Living Centres, Campus Health Centre, Financial Aid and Awards Office, Academic Advising and other university offices as appropriate to the case.

“Student” means an individual who is currently registered in any course or program of study or at the University, or who was registered as a Student at the time of the alleged incident of Sexual Violence. Once an investigation process is commenced against a Student, the process will continue to a Decision even if the Student withdraws from the University.

“Support Worker” means a trained and registered Mental Health Counsellor in Student Mental Health Services assigned responsibility for providing support and Accommodations for students who have experienced Sexual Violence or for students accused of Sexual Violence. Support Workers are trained in trauma-informed practice and have experience in working with students affected by sexual violence.

SCOPE AND AUTHORITY

3. This Policy applies to all alleged incidents of Sexual Violence involving Students.
4. The Policy covers:
 - 4.1. Students who have experienced Sexual Violence while registered at the University or who have previously experienced Sexual Violence.
 - 4.2. Students who are accused of Sexual Violence with respect to incidents that have occurred on or off campus (e.g., parking garages, residences, gatherings of Students), including:
 - Through any conduct in the course of work, co-op, practicum, research, or study arising out of or related to the University’s interests; and
 - Through any media (e.g., in-person, written, recorded, online).
5. Reports of Sexual Violence involving individuals who are not University Students will be dealt with as follows:
 - 5.1. Reports of Sexual Violence implicating a University Student brought forward by a University employee or other individual will proceed under this Policy in collaboration with Human Resources.
 - 5.2. Reports brought forward by a University Student implicating a Respondent who is a University employee or other University member, including a Respondent who is both a Student and an employee (e.g., Teaching Assistants), will proceed under the relevant collective agreement or policy.
 - 5.3. Reports implicating a University Student brought forward by an individual from Durham College or Trent University Durham will proceed under this Policy in collaboration with the relevant institution.
 - 5.4. Reports brought forward by a University Student implicating a Respondent from Durham College or Trent University Durham will proceed under the responding institution’s Policy in collaboration with the University.
6. In cases where it is unclear which process should be used to deal with a complaint of Sexual Violence, the Provost will make a determination taking into consideration the circumstances of the case and in the interest of avoiding duplication of processes.
7. The Provost and Vice President Academic, or successor thereof, is the Policy Owner and is responsible for overseeing the implementation, administration and interpretation of this Policy.

POLICY

- 8.** The University of Ontario Institute of Technology is committed to maintaining healthy and safe learning, living, social, recreational and working environments. Acts that perpetuate Sexual Violence, including Sexual Harassment, are against the University's values and will not be tolerated. Thus, the University will:
- 8.1.** Condemn all acts that perpetuate or reinforce Sexual Violence and hold individuals who perpetrate such acts accountable;
 - 8.2.** Help those who have experienced Sexual Violence by providing supports and services, regardless of whether or not a Report is filed;
 - 8.3.** Help the university community to oppose Sexual Violence through proactive educational programming; and
 - 8.4.** Continually improve how the university addresses Sexual Violence by examining the efficacy of programming choices, how support is provided, and how students use services and resources.
- 9.** There are many myths and misconceptions about Sexual Violence (e.g., rape myths) that downplay the seriousness of Sexual Violence and confuse an individual's understanding of Consent. These ways of thinking contribute to a social context where individuals who experience Sexual Violence may blame themselves for what happened and worry that they will not be believed, which may dissuade them from seeking help. These misconceptions contribute to victim-blaming responses that excuse perpetrators for their actions. The University strongly opposes this kind of thinking. This policy was developed to support those who have experienced Sexual Violence and to ensure they are treated with dignity and respect.
- 10.** The University recognizes that each individual is free to label their experiences using whatever terminology they choose. The label "survivor" may work for some individuals, and may not for others. To that end, this policy refers to individuals based on their interaction with the policy.
- 11.** The University prides itself on the diversity of its student population. The broad range of student identities, backgrounds and cultures will be considered when accommodating the needs of students.
- 12. Support for Students**
- 12.1.** For any Student who has experienced Sexual Violence, or any Student who is accused of perpetuating Sexual Violence, this Policy and related procedures detail how the University will:
- a)** Empower Students to make separate choices on whether to:
 - Disclose within a safe space and receive information about available supports and Accommodations,
 - Access support and assistance from the University, and
 - Officially report an incident of Sexual Violence to the University in order to pursue an informal or formal resolution.
 - b)** Accommodate the needs of Students affected by Sexual Violence;

- c) Implement Interim Measures to protect Students affected by Sexual Violence, where appropriate; and
- d) Respond to and address incidents of Sexual Violence involving Students.

13. Prevention, Education and Training

- 13.1.** The University stands against Sexual Violence through a preventative approach that empowers the University community to oppose sexual violence and to minimize behaviours that contribute to the perpetuation of Sexual Violence.
- 13.2.** To this end, the University will provide educational programming and training for students on this Policy through its new student orientation program and on a regular basis throughout the academic year. Key topics to be addressed include, but are not limited to:
- Abuses of power dynamics and victim blaming;
 - Alcohol and substance consumption;
 - Cultural competency and sources of discrimination;
 - Consent culture;
 - How sexism, ableism, ageism, racism, sexual orientation and gender identity intersect with Sexual Violence;
 - Rape culture;
 - Understanding aggression and standing up to aggression; and
 - Understanding online harassment through social media.
- 13.3.** The University will also provide training on this Policy to all members of the governing board, senior administrators, faculty, staff, other employees and contractors, on a regular basis detailing the processes for responding to and addressing incidents of Sexual Violence involving Students, including elements involved in reporting, investigating and deciding upon incidents of Sexual Violence. This training shall be provided by experts on healthy sexuality and sexual violence and focus on the complexity of sexual violence experiences and patterns, myths about sexual violence survivors and perpetrators, and takes an intersectional approach to addressing issues related to race, Indigeneity, disability and class, in addition to gender and sexuality.

14. Advisory Committee

- 14.1.** The University seeks to continually improve how it addresses Sexual Violence by examining the efficacy of supports and programming choices, how support is provided, and how Students use university services in accordance with this Policy. To this end, it has established an Advisory Committee on Sexual Violence Prevention and Support, comprised of students, faculty and staff from across the University, to elicit broad input from the community on the University's efforts to oppose sexual violence among students, and support continuous improvement. The Advisory Committee will prepare an annual report to the Provost on the implementation and effectiveness of this Policy along with data relating to the use of sexual violence supports and services, complaints reported, and the initiatives and programs underway to promote awareness of these services. (See Appendix A for Terms of Reference for the Advisory Committee.)

PROCEDURES

15. Disclosing, Accessing Support and Reporting

- 15.1.** This Policy distinguishes between Disclosing, Accessing Support and Reporting:
- a) Disclosing means telling someone about what has happened and being referred to a Support Worker or other services to provide support and assistance.
 - b) Accessing Support means telling a Support Worker who can provide support and Accommodations from a confidential space.
 - c) Reporting means filing a Report of Sexual Violence with a Case Manager to pursue a resolution through Formal or Informal processes.
- 15.2.** Students who share their experience of Sexual Violence through Disclosing, Accessing Support, and/or Reporting have the right to:
- a) Be treated respectfully;
 - b) Choose whether to initiate, continue or discontinue telling their story, and to participate or not participate in any aspect of processes that result from pursuing a resolution;
 - c) Choose whether to access support and accommodations, regardless of whether a Report is brought forward;
 - d) Choose not to request an investigation, and have the right not to participate in any investigation that may occur;
 - e) Be protected from irrelevant questions such as those relating to past sexual history or sexual expression;
 - f) Be protected from having their use of drug or alcohol while being underage held against them at the time the Sexual Violence occurred;
 - g) Have the information they disclose be kept in confidence, shared only on a need-to-know basis, or where legally required. All information will be handled in accordance with the [Freedom of Information and Protection of Privacy Act](#); and
 - h) Choose whether to pursue recourse through external processes, such as an application to the Human Rights Tribunal of Ontario, filing a police report or other processes of criminal or civil justice.

16. Disclosing

- 16.1.** The University recognizes that Students who have experienced Sexual Violence may initially disclose to a friend, peer leader, or trusted faculty or staff member. The individual receiving a disclosure should act in a caring and supportive way and maintain confidentiality, except where the individual making the disclosure consents to further information sharing in order to access support.
- 16.2.** Any individual who receives a disclosure from a Student should:
- a) Inform the Student about this Policy and about the available supports and assistance that are available to them. Help for those who have received a disclosure is posted [online](#);
 - b) Help the Student access a Support Worker as needed to explore pathways to wellness and healing;

- c) Help the Student access the Case Manager as needed to explore reporting options; and
 - d) Email disclosure@uoit.ca sharing only the time of the disclosure and confirming that the disclosing Student has been provided information about available supports and assistance and/or directed toward the [website](#).
- 16.3.** If the information received from the disclosing Student suggests any of the following circumstances, those receiving the disclosure must promptly share that information with the Office of Campus Safety, and in doing so, must inform the Student of this action:
- a) Where there is a perceived threat or risk of harm, including self-harm, to the Student or other individual;
 - b) Where the actions constitute harassment and/or result in an individual feeling as though their personal safety is at risk, whether in person or online; and
 - c) Where an incident has occurred involving Workplace Violence or Workplace Harassment under the *Occupational Health and Safety Act*.
- 16.4.** Those requiring advice about whether, and to what extent, the information must be shared may consult with the Director, Campus Safety. The Office of Campus Safety will use and share the information provided to the extent that is required by law.

17. Accessing Support

- 17.1.** In an emergency where there is a clear risk of harm, including self-harm, call for help.
- At the North campus location, call Security at 905.721.3211 (x2400) to help EMS more easily locate the incident.
 - At the downtown campus location or off campus, call 911.
- 17.2.** Where it is not an emergency, Students who have experienced Sexual Violence can access support for their wellness and healing by making an appointment with a Support Worker (call 905.721.3392 or email studentlifeline@uoit.ca). Appointments may be held by phone or in person at a different campus location at the request of the Student. Support Workers offer support and Accommodations regardless of whether or not the Student chooses to proceed with a Report. Students may also access community supports and services listed [online](#).
- 17.3.** Support Workers provide Students who have experienced Sexual Violence with the opportunity to tell their own story on their own terms, and support Students by:
- a) Helping Students to explore pathways for wellness and healing;
 - b) Communicating with other members of Sexual Violence Response Team involved in providing support and Accommodations, with the Student's consent;
 - c) Providing referrals to supports and services through external community partners; and
 - d) Offering other assistance as required.

18. Confidentiality

- 18.1.** Accessing support from a Support Worker or a Case Manager occurs in a protected space and information will be kept confidential, except under the following circumstances:
- a) The Student seeks Accommodations and consents to sharing information with relevant members of the Sexual Violence Response Team on a need-to-know basis in order to make the appropriate arrangements;
 - b) The Student chooses to proceed with Reporting an incident of Sexual Violence, in which case information will be shared only to the extent necessary to achieve Administrative Fairness, and as otherwise required by law;
 - c) Information is received suggesting there is a clear risk of harm, including self-harm, to the Student or other individuals;
 - d) The Student has experienced Sexual Violence by someone employed by the university (e.g. faculty or staff member, or teaching assistant) t, in which case a confidential investigation will be conducted under the Policy against Violence, Harassment and Discrimination in the Workplace and information will be disclosed only to the extent necessary to achieve Administrative Fairness;
 - e) Reporting is required by law (e.g., the suspected abuse or neglect of someone under 16 years of age, which will be reported to the Children’s Aid Society, or sexually inappropriate behaviour by another health professional is disclosed and their name is provided, which would be reported to their regulatory body.); and
 - f) Information is required for a police investigation, or for litigation purposes.

19. Reporting

- 19.1.** Where a Student or other individual affected by Sexual Violence is considering bringing forward a Report of Sexual Violence, they may meet with the Case Manager to review the Procedures described in Sections *18-24. The Complainant may arrange the meeting with the Case Manager directly or with the help of the Support Worker.
- 19.2.** If the Complainant wishes to pursue a resolution under this Policy, the Case Manager will conduct a preliminary assessment by obtaining brief details from the Complainant to assess in a sensitive and tactful manner the nature of the Sexual Violence being reported and determine whether:
- a) The described incident is covered by this Policy;
 - b) Interim Measures are necessary to protect the safety of the Complainant or other Students and arrange for their implementation within five (5) Working Days.
 - c) Accommodations are needed if the Student has not accessed support through a Support Worker. Accommodations can be arranged regardless of whether or not the Student chooses to proceed with an Investigation and will be implemented on a confidential basis in accordance with Section *18.
- 19.3.** If the Case Manager determines that the incident is covered by this Policy, they will make a final and binding decision to commence an Investigation pursuant to Section *22.1. This determination will normally be made within five (5) Working Days of Receipt of the Report.

- 19.4.** If the Case Manager determines that the Report does not warrant further investigation (e.g., the allegations brought forward are not covered by this Policy or are covered by another policy), they will advise the Complainant in writing of the determination to not proceed with an investigation. In instances where a Respondent may have been alerted or notified of the fact that a Report has been received, the Case Manager may advise the Respondent in writing of the determination to not proceed with an investigation.
- 19.5.** If at any stage following the receipt of a Report there is evident behaviour or actions of retaliation, or expressed or implied threat of reprisal against a Complainant, the Case Manager may arrange additional Interim Measures to protect the Complainant and the reprisal may itself be the subject of a further Report.

20. Informal Resolution

- 20.1.** A Complainant may choose to pursue an Informal Resolution at any time. The Case Manager will work with the Complainant to consider an Informal Resolution option that can help them to meaningfully address the incident of Sexual Violence and where participation does not place the Complainant at risk. Examples of Informal Resolution processes include: delivering an impact statement, communicating to a Respondent that the behaviour is unwelcome and must stop, meeting with a university official to discuss the ways in which future occurrences of the disclosed incident can be prevented, training or education for individuals and groups, or other alternate resolution process.
- 20.2.** The Case Manager will work with other university officials or other support groups, where appropriate, to undertake the Informal Resolution process selected by the Complainant.
- 20.3.** If the Complainant is satisfied by the actions taken through the Informal Resolution process, the Case Manager and the Complainant will prepare and sign a written summary of the resolution, and the Report will be deemed resolved.
- 20.4.** If no satisfactory resolution is achieved, the Complainant may consider pursuing a Formal Resolution.

21. Formal Resolution

- 21.1.** If the Complainant chooses to pursue a Formal Resolution, the Case Manager will oversee the process to ensure that the parties are treated fairly, the file proceeds as expeditiously as possible, and the safety of the Complainant is considered at all steps of the process. In doing so, the Case Manager will ensure that all elements of Administrative Fairness are applied to the Investigation and Decision Making processes. An Informal Resolution does not have to be considered or achieved for a Formal Report to take place.

22. Investigation

- 22.1.** Pursuant to Section *19.3, where it is determined that a Report of Sexual Violence will be investigated, the Case Manager will:
- a)** Appoint an Investigator.
 - b)** Advise the Complainant in writing that the Report will be investigated, and that the Complainant will be contacted by the Investigator for a meeting in due course.

- c) Advise the Respondent in writing that a Report has been received and that they are the subject of an investigation of a Report of Sexual Violence. This notice will, at minimum, be delivered to a uoit.net or uoit.ca email account, as applicable. The notice will advise that an investigation is being initiated, contain a brief summary of the allegations, and indicate they will be contacted by the Investigator for a meeting in due course. The notice will also provide contact information for Support Services, and will indicate that the Respondent has the right to be supported and accompanied by legal counsel and/or other support. This notice will be provided within five (5) Working Days of receipt of the Report.
- 22.2.** The purpose of an investigation is to: gather evidence and witness statements, weigh the evidence; make findings of fact based on the evidence, and produce an Investigative Report. In an investigation under this procedure, the Investigator must provide an investigative opinion having weighed the evidence on a Balance of Probabilities that either: (1) Sexual Violence did occur; or (2) Sexual Violence did not occur.
- 22.3.** The Investigator will keep all information obtained during an investigation confidential, and all relevant documents, including electronic documents, will be kept in a secure location.
- 22.4.** At any point during the investigation, the Investigator may set meetings with any individual to obtain further information, ensuring that all elements of Administrative Fairness are upheld. At a minimum, the Investigator will make reasonable attempts to meet with the Complainant and the Respondent and provide them with the opportunity to submit written or other documentary evidence relevant to the case. The Investigator may also choose to seek information from other witnesses taking care to ensure that they are given a reasonable opportunity to understand the allegations and provide relevant information. Individuals have the right to be accompanied by legal counsel, a union representative, or other person at any point during this procedure or related processes.
- 22.5.** During the course of the investigation, the Investigator will keep the Complainant and the Respondent apprised of the status of the investigation and the expected time to completion. Unless there are extenuating circumstances, it is expected that process will be completed within ten (10) Working Days.
- 22.6.** Once the Investigator has compiled a complete summary of the allegations and supporting document(s), the Investigator will notify the Respondent and provide them with a copy of the draft investigative report. The report may be redacted where appropriate to protect confidentiality (e.g., witness names). This draft report will contain all information that is required for the Respondent to fully understand the allegations and provide a complete response.
- 22.7.** The Respondent will be given a reasonable opportunity to meet with the Investigator to discuss the draft investigative report and respond to the allegations. Unless there are extenuating circumstances, the Respondent will be given five (5) Working Days to provide a written response. If no response is provided or the Respondent chooses not to participate, the Investigator may proceed without input from the Respondent.
- 22.8.** If more time is required for the investigation and/or response due to extenuating circumstances, the Investigator will notify the Complainant and Respondent accordingly.

Extenuating circumstances may include having multiple witnesses, difficulty in scheduling interviews, availability of resource persons or materials, time of year, or other circumstances that may arise through the course of the investigation.

- 22.9.** Based on all available evidence, including the Respondent's response, the Investigator will determine whether there has been a violation of the Policy, weighing the evidence on a Balance of Probabilities. The Investigator's determination will be reported in a final Investigative Report containing a summary of the information gathered during the investigation and the Investigator's conclusions pursuant to Section *22.2 of this Policy.

23. Decision Making

- 23.1.** The Investigator will forward the final Investigative Report to the Office of the Provost for a Decision. The Provost will appoint an individual to serve as the Provost's Delegate. The Provost's Delegate must have appropriate training and experience in trauma-informed approaches to investigations and decision making involving Sexual Violence and there is no known or perceived conflict of interest. This role will normally be filled by the Associate Provost; however, where the role of Associate Provost is vacant or where the individual in this position does not have sufficient training, the Provost will appoint an internal or external delegate to fill this role.
- 23.2.** The Provost's Delegate will review the evidence contained in the Investigative Report and make a determination concerning the allegations of Sexual Violence that were brought forward. In cases where the Provost's Delegate determines and/or confirms that the allegations substantiate a breach of the Policy, they will determine the appropriate Disciplinary Penalties pursuant to Section *24 of this Policy, and prepare a written Decision that will be forwarded to the Respondent and the Case Manager. It is expected that the Decision will be forwarded within ten (10) Working Days following receipt of the final Investigative Report by the Provost's Office.
- 23.3.** The Case Manager will share the Decision in writing with the Complainant as appropriate to maintain obligations under privacy laws, uphold Administrative Fairness and protect the ongoing health and safety of the Complainant or other involved parties.

24. Disciplinary Penalties

- 24.1.** If a Respondent is found to have engaged in Sexual Violence, the Provost's Delegate may determine that one or more of the following Disciplinary Penalties be imposed:
- a) Written warning;
 - b) Conduct contract;
 - c) Formal apology;
 - d) Community service;
 - e) Alternative forms of restitution;
 - f) Restrictions from specific campus activities or course enrolments;
 - g) Suspension or eviction from one or more facilities at the University; and/or
 - h) Expulsion.
- 24.2.** The Office of the Provost shall be responsible for ensuring the implementation and enforcement of any Disciplinary Penalties. Students who fail to fulfill the terms of the penalties will be subject to further disciplinary proceedings under the Student Conduct Policy.

25. Review of Investigation Procedures

- 25.1.** In accordance with the University's Fair Processes Policy, the Respondent or the Complainant can request a review of the investigation, decision making process, or the Decision where there is reason to believe that a lack of Administrative Fairness resulted from the following elements:
- a) Parties did not receive adequate notice;
 - b) Processes did not run in a timely fashion; and/or
 - c) Processes were not managed in accordance with University Policy Instruments and had fundamental flaws.
- 25.2.** A request for review must be submitted in writing and must set out a description of the grounds of the request consistent with Section *25.1. A request must be submitted to the Office of the Provost within ten (10) Working Days of the date of the Decision.
- 25.3.** A Review Officer external to the University with the appropriate skills, training and experience to work with Sexual Violence cases will be appointed by the Provost to determine the outcome of the review.
- 25.4.** The Review Officer will receive a copy of the request for review, the Decision letter, the Investigative Report and all materials gathered during the investigation.
- 25.5.** The Review Officer will issue a decision within ten (10) Working Days of their appointment. The decision will include an assessment of the investigation process and any steps to be taken to remediate flaws in the process up to and including conducting a hearing. Such a hearing will be held in accordance with the process set out in these Procedures for an appeal hearing or an oral hearing, as applicable.

26. Appeal

- 26.1.** The Respondent has a right to appeal the decision and/or disciplinary penalties imposed by the Provost's Delegate under one or both of the following grounds:
- a) New evidence exists that was not available to the Respondent at the time of the original decision (through no fault of their own) that, if considered would likely have altered the outcome of the Decision; or
 - b) There was a fundamental flaw in the investigation or decision making procedures that led to the Decision, resulting in a lack of Administrative Fairness.
- 26.2.** A notice of Appeal must be submitted in writing, and must set out the specific grounds on which the appeal is being made and provide a summary of evidence in support of these grounds to the Office of the Provost within ten (10) Working Days of the date of the Decision.
- 26.3.** An Appeal Officer external to the University with the appropriate skills, training and experience to work with Sexual Violence cases will be appointed by the Provost to conduct and decide the Appeal.
- 26.4.** The Office of the Provost will provide to the Appeal Officer a copy of the notice of Appeal, supporting evidence, the Decision letter, the Investigative Report and all materials gathered during the investigation.

26.5. If, after considering the written submissions, the Appeal Officer finds that the case does not meet the grounds for appeal set out in Section *26.1, the Appeal Officer will dismiss the Appeal or Review within five (5) Working Days of receipt of the Appeal. Otherwise an appeal hearing will be conducted.

27. Appeal Hearing procedure

27.1. Appeal hearings will normally be conducted in writing as follows:

- a) The Appeal Officer will provide a copy of the notice of appeal and any new supporting evidence to the Provost's delegate.
- b) The Provost's Delegate will have ten (10) Working Days to provide the Appeal Officer with a written response to the Appeal. A copy of the written response will be provided to the Appellant.
- c) The Appellant will have ten (10) Working Days to provide the Appeal Officer with a final written response. A copy of this response will be provided to the Provost's Delegate.
- d) The Appeal Officer will normally issue a written decision to the Appellant and the Provost's Delegate within ten (10) Working Days of their receipt of the Appellant's final written response. The decision will provide the reasons in support of the decision.

27.2. The time limits specified under these procedures may be extended by the Appeal Officer or Review Officer at the request of the Appellant or the Provost's Delegate, if reasonable grounds are shown for the extension.

28. Oral Hearing

28.1. At the Appeal Officer's discretion, an appeal may proceed as an oral hearing, or at the Review Officer's discretion, a review may result in an oral hearing, to be conducted in accordance with the University's procedures for conducting oral hearings.

28.2. In such cases, the Complainant may be required to participate. If so, arrangements will be made to minimize the potential for traumatization of any party through direct contact with the Respondent or having to re-tell their story. Alternate methods of hearing testimony and asking questions may be used including: providing separate rooms before the meeting; alternate means of participation such as telephone, video, pre-recorded answers and statements; prepared written responses; and/or the opportunity to have access to a Support Worker at the time of the hearing.

MONITORING AND REVIEW

29. This Policy will be reviewed as necessary and at least every three years. The Advisory Committee on Sexual Violence Prevention and Support, or successor thereof, is responsible for monitoring and reviewing this Policy. Any amendments to this Policy must be approved by the University's Board of Governors.

RELEVANT LEGISLATION

[Ministry of Training, Colleges and Universities Act](#)

[Ontario Human Rights Code](#)

RELATED POLICIES, PROCEDURES & DOCUMENTS

[Student Conduct Policy](#)

[Fair Processes Policy](#)

[Policy against Violence, Harassment and Discrimination in the Workplace](#)

Appendix A - ADVISORY COMMITTEE ON SEXUAL VIOLENCE PREVENTION AND SUPPORT

TERMS OF REFERENCE

The University Advisory Committee on Student Sexual Violence Prevention and Support provides advice and guidance to the Provost on the University's efforts to oppose sexual violence among students on campus. The mandate of the Committee includes:

- (a) Reviewing and recommending revisions to university policies on student sexual violence as needed;
- (b) Advising on training programs for development and delivery to staff, faculty, students, senior administrators, and the University Board of Governors. This training will include the University's process for responding to and addressing disclosures and complaints;
- (c) Identifying updates to supports, services and online content;
- (d) Evaluating the efficacy of programming, activities, and processes related to help-seeking behaviours and advising on changes, where necessary;
- (e) Overseeing the implementation of a survey of students or other University members, as required, relating to the effectiveness of university policies on sexual violence;
- (f) Drafting an annual report highlighting data related to measures listed above in this section and making recommendations to the Provost or delegate; and
- (g) Preparing a written annual review to the Office of the Provost and Vice-President Academic detailing recommended changes to the Student Sexual Violence Policy and related procedures.

MEMBERSHIP

The Committee membership is comprised of the following:

- Two University Faculty Members appointed by the Provost (one to serve as the Chair)
- President, UOIT Student Union or delegate
- Six University students appointed through a student-led selection process involving a call for application and interview process
- An academic advisor
- Two representatives from Student Life
- Assistant Vice-President, Student Life or delegate

Every effort will be made to ensure that the membership draws on the University's expertise in the area of sexual violence, and that it also reflects a broad diversity of experience across the academic programs.

Members serve on a voluntary basis for a two-year term for staff and one-year term for students with the possibility of renewal for an additional term.

The Committee will be supported by the Manager, Student Engagement and Equity and the Executive Assistant, Student Life.

MEETINGS

The Committee will meet at least three times per academic year; however, additional meetings may be required.