

 CAPILANO UNIVERSITY		POLICY	
Policy No.	Officer Responsible		
B.401	Vice President, Strategic Planning, Assessment and Institutional Effectiveness		
Policy Name			
Sexual Violence Policy			
Approved by	Replaces	Category	Next Review
Board		Safety	November 2026
Date Issued	Date Revised	Related Policies	
April 18, 2017	November 28, 2023	B.311 Employee-Student Relationships B.506 Standards of Conduct B.511 Discrimination, Bullying and Harassment Policy B.512 Human Rights, Diversity, Inclusion and Equity B.700 Privacy and Access to Information B.701 Student Code of Conduct Policy OP.418 At Risk Behaviour and Violence Response Prevention Policy OP.420 Safety and Emergency Services Policy	

1. POLICY STATEMENT

- 1.1. Capilano University (the “University”) is committed to creating and maintaining a safe working, learning, and living environment that aims to prevent and respond to Sexual Violence. The University recognizes that Safety may look different based on lived experiences.
- 1.2. The purpose of this policy is to outline how the University will address Sexual Violence and to identify institutional, collective, and individual responsibility in creating and maintaining an environment that reduces Sexual Violence and creates safer access for Survivors to Disclose and Report.
- 1.3. Sexual Violence is not tolerated or condoned by the University.

2. PREAMBLE

- 2.1. The University commits to Sexual Violence response, prevention and education strategies that are guided by decolonial, intersectional, accessible, culturally grounded, Survivor centered, and trauma and violence informed methods.
- 2.2. The University commits to taking an approach to Sexual Violence response, prevention and education that recognizes the complexity of harm, histories of institutional harm, and the power dynamics within a University community that create barriers to Disclosing and Reporting Sexual Violence.
- 2.3. The University acknowledges that Sexual Violence is a systemic issue that impacts all members of society. The University acknowledges that Sexual Violence impacts people differently, and that social groups who experience intersecting forms of discrimination, including on any grounds protected by the B.C Human Rights Code, may experience higher rates of Sexual Violence.
- 2.4. The University commits to collaboration with on- and off-campus partners in order to create a coordinated and relational approach to Sexual Violence response, prevention and education efforts.
- 2.5. The University commits to providing designated funding for Sexual Violence support and educational resources.
- 2.6. A Sexual Violence Advisory Committee has been established under this policy, made up of Members of the University Community including Students, Employees and community based partners. The advisory committee is chaired by a designate of the Office of Student Affairs and provides guidance on the implementation of this policy and reports annually to the President and the Board of Governors. The advisory committee does not advise on individual cases.
- 2.7. The University commits to giving agency, choice, and options to Members of the University Community impacted by Sexual Violence. Those impacted by Sexual Violence will be treated with dignity, respect, and compassion and provided with accessible, timely, and confidential support. This includes support for witnesses, bystanders, and people that have caused harm.

3. DEFINITIONS

“Accommodation” is the process or action by which reasonable arrangements are made to support the academic, employment, health, well-being, and safety needs of a Member of the University Community impacted by Sexual Violence.

“Administrator” means an employee working in a managerial role. This includes, but is not limited to Associate Vice Presidents, University Librarian, Directors, Managers, HR Business Partners and any other equivalent positions. Administrators are excluded from or not represented by a union.

“Balance of Probabilities” means the standard of proof used to determine findings of fact, requiring the evidence shows that the alleged fact is more likely to have occurred than not.

“Complainant” means a person who has made a report of an alleged violation of this Policy.

“Consent” means an active, direct, voluntary, and conscious choice and agreement between adults to engage in physical or sexual activity. It is the responsibility of the person initiating or pursuing physical or sexual activity to obtain consent at all stages of physical or sexual engagement. More specifically, consent:

- a) is a freely given “yes”;
- b) cannot be assumed or based on a perception that it was implied;
- c) cannot be given by someone who is incapacitated (by drugs and/or alcohol), asleep, unconscious, or otherwise incapable of providing consent;
- d) can be removed at any time, regardless of whatever other physical or sexual activities have taken place;
- e) can never be obtained through threats, intimidation, coercion, or other pressure tactics;
- f) cannot be obtained if someone abuses a position of trust, power, or authority; and
- g) cannot be assumed from previous consent to physical or sexual activities.

“Disclose” or **“Disclosing”** means the sharing of information by a Member of the University Community regarding an incident of Sexual Violence with a Member of the University Community in order to access support only. A Disclosure can be made without a formal Report to the University.

“Duty of Care Committee” means a representative team of core decision-makers who will review incidents of at-risk and violent behavior through risk and threat assessment methods and, where appropriate, initiate investigations and make recommendations.

“Employee” means any person employed by the University.

“Investigation” is a formal process carried out by the University in accordance with the associated procedures. Investigations may be conducted by an internal or external investigator on behalf of the University.

“Member of the University Community” means Employees, Students, board members, and volunteers.

“Report” or **“Reporting”** in this policy means a formal report of an incident of Sexual Violence made by a Member of the University community for the purpose of initiating some form of investigation by the University. This is not the same as Disclosing, which does not initiate a formal process. This is also not the same as making a report to law enforcement or other reporting mechanisms outside of the University.

“Respondent” in this policy means a Member of the University Community against whom a report of Sexual Violence has been made under this policy and its associated procedures.

“Retaliation” means any action that threatens, intimidates, or harasses a person or their working, learning, or living environment, taken or made through any means, including through online activity, with anyone who engages with this policy and its associated procedures.

“Safety” in this policy means the state of being safe from experiencing harm or injury. This may include physical, emotional, financial, or spiritual harm in relation to Sexual Violence. Safety needs may look different for everyone based on lived experiences and identity.

“Sexual Assault” is any form of unwanted sexual contact that occurs without ongoing and freely given consent, including the threat of sexual contact without consent. Sexual assault can include any form of unwanted touching, kissing, groping, fondling, forced sexual activity (including oral and anal), and attempted forced sexual intercourse. Sexual assault can be perpetrated by a stranger, someone known to the Survivor, by an intimate partner, or others. Anyone can perpetrate sexual assault, and anyone can be a Survivor of sexual assault. Sexual assault is the legal term used in Canada and is a crime.

“Sexual Harassment” is a comment, conduct, or representations of a sexual nature, including sexual advances, requests for sexual favours, suggestive comments or gestures, or physical contact by a person who knows, or ought reasonably to know, that the conduct or comment is unwanted or unwelcome. The behavior interferes with another person’s participation in a university-related activity, leads to or implies employment or academically related consequences for the person harassed, or creates an intimidating, humiliating, or hostile environment.

“Sexual Violence” is an umbrella term that encompasses a broad range of sexual behaviour, whether physical or psychological, that is committed, threatened, or attempted against a person without the person’s consent. It takes many forms including, but not limited to: sexual assault, sexual exploitation, Sexual Harassment, stalking, indecent exposure, voyeurism, distribution of sexual images or video of a person(s) without their consent, stealthing, and online activity including online harassment, online stalking of a sexual nature or technology facilitated sexual violence.

“Student” means an individual enrolled in any course (credit or non-credit) at the University.

“Survivor” means a Member of the University Community who has experienced Sexual Violence. Survivors who choose to report may also be referred to as ‘Complainants’.

“Trauma and Violence Informed Approach” means an understanding of the impacts of Sexual Violence on individuals, families, communities, and places, including intergenerational trauma. A trauma and violence informed approach uses that understanding to develop practices that minimize further harm, foster healing, and honor strength and resiliency. A trauma and violence informed approach recognizes historical trauma and promotes systemic change rooted in resilience, not re-victimization.

“University premises or property” means any University owned or rented/leased lands, facilities, or conveyance, including on-line forum.

“University-related Activity” includes an activity or event conducted under the authority of the University at any location, on or off campus including online forum.

“Visitor” means non-University community members who are visiting any University premises or property or engaging in a University-related activity. This includes alumni and donors.

4. CONFIDENTIALITY AND PRIVACY

- 4.1 Confidentiality is an important principle in creating an environment where Survivors feel safe to Disclose, Report, and seek support.
- 4.2. The information and records created and received to administer this policy are subject to the access to information and protection of privacy provisions of the BC *Freedom of Information and Protection of Privacy Act* (“FIPPA”) and will be managed in alignment with B.700-t Privacy and Access to Information Policy.
- 4.3. The University will share identifying information only in situations where it is necessary to respond to safety concerns, a legal reporting requirement or the University is compelled to provide evidence in a criminal or civil proceeding as authorized by the President. In these circumstances, the University will disclose to Survivors, Respondents, or witnesses that this identifying information is being shared, and to other relevant University investigative bodies as required. This will be done in a timely manner in order to address any concerns and set up reasonable safety and support measures as needed. The University will also try to share the minimum amount of information to satisfy the safety concern or legal requirement.

Circumstances may include:

- a) when a person is at risk of harm to self;
- b) when a person is at risk of harming others;

- c) there are reasonable grounds to be concerned of previous or future risk or violence to Members of the University Community and/or broader community;
- d) disclosure is required by law (e.g. suspected abuse of someone under the age of 19);
- e) compliance with the *Workers' Compensation Act*, *Human Rights Code*, or civil action;
- f) reliable information of the disclosed incident of Sexual Violence is available in the public domain (e.g. images or video on social media);
- g) to comply with the reporting requirements of regulatory bodies.

4.4. The University will share confidential information to ensure that the reporting processes listed are fairly conducted, in accordance with the following principles:

- a) The Respondent has the right to know the pertinent details of the Complaint, including the identity of the Complainant. However, the identity of the Complainant will be withheld until a risk assessment has taken place to protect the health and safety of the Complainant. A risk assessment will be done promptly so as to not delay the process.
- b) The Complainant has the right to know the outcome of the investigation, but not the details of any sanctions that may have been applied to the Respondent unless sharing that information is necessary for the protection of the Complainant's health or safety; and
- c) Other persons do not have the right to know any confidential information except to the extent required to conduct an investigation or as required by law or regulatory bodies.

4.5. Unauthorized release of confidential information is a violation of this policy, B.700 Privacy and Access to Information Policy, may violate *FIPPA*, may deter Survivors from coming forward and may prevent the University from conducting a fair process when a report is made.

5. SCOPE AND JURISDICTION

- 5.1 This policy applies to all Members of the University Community and includes but is not limited to alleged sexual violence that occurred on university premises or property, at university activities, while representing the university and online or technology facilitated sexual violence.
- 5.2. Any Member of the University Community who has experienced Sexual Violence can access confidential assistance and support, accommodations, referrals and information from the Office of Student Affairs or Human Resources regardless of the time or place at which the Sexual Violence occurred.
- 5.3. Visitors to University premises or property or participants in University-related activities who experience Sexual Violence can access support, information, safety accommodations and report to the Office of Student Affairs.

- 5.4. Visitors to University premises or property or participants in University related activities who are accused of perpetrating Sexual Violence may be subject to investigation, restricted from University premises or property or University-related activities or subject to other safety requirements as determined by the Duty of Care committee.
- 5.5. The University has the jurisdiction to address disclosures and reports made against a Member of the University Community and can take action to the extent of its relationship to that member at the time the incident occurred:
 - a) on University premises;
 - b) at a University-related activity; or
 - c) when the Respondent was in a position of power or influence over the survivor's academic or employment status.
- 5.6. The University reserves the right to take necessary and appropriate action to protect the safety and welfare of the campus community and the working, learning, and living environment. This may include taking necessary and appropriate action in cases where a Member of the University Community is accused of Sexual Violence and there is a clear connection to the University community regardless of where the incident occurred. This may supersede the Complainant's desire to report under this policy.
- 5.7. The University has no jurisdiction to investigate Reports made against an individual who is not a Member of the University Community but will make every effort to ensure Survivors and witnesses are provided with support, referrals and information on reporting externally. This is explored further in the associated procedures in section 4.2.
- 5.8. Human Resources is responsible for investigating and responding to Reports where the Respondent is an Employee or other Member of the University Community. The Office of Student Affairs is responsible for investigating and responding to Reports where the Respondent is a Student.
- 5.9. All Survivors have the right to pursue criminal and/or civil legal remedies and exercise any other legal rights they may have, including the right to file a complaint with the BC Human Rights Tribunal, whether or not they choose to make a Report under this Policy.
- 5.10. All Members of the University Community have the right to withdraw a Report at any time and are under no obligation to continue to participate in an investigation process. However, an investigation process may continue if there are safety concerns that could impact the University community.

- 5.11. Survivors and bystanders may choose to file an anonymous third-party report to a community-based service and/or to the University. Third-party reports can be submitted to the Office of Student Affairs or Human Resources, and will be accepted by the University in the following circumstances:
- a) for statistical purposes;
 - b) to provide evidence that a Member of the University Community poses a safety concern to the University community; or
 - c) to determine whether further investigation is appropriate in alignment with procedural fairness.
- 5.12. This policy and associated procedures are separate from any criminal or civil proceedings. The University is responsible for determining whether a Member of the University Community has violated this policy and is not responsible for determining violations of criminal or civil law.
- 5.13. The University may accept a Disclosure or a Report from a person seeking to become a Member of the University Community in circumstances that directly affect their application or safe entry in becoming a member, and from former Members of the University Community in circumstances directly affecting their departure from the University. In these circumstances there may not be jurisdiction for an investigation or apply sanctions, however safety measures may be put in place for the survivor/complainant based on a risk assessment conducted by the Duty of Care Committee.
- 5.14. In cases involving behaviour that may fall within the definition of Sexual Harassment in B.511 Discrimination, Bully and Harassment Policy, a survivor who is an Employee will be given the choice to continue the processes set out in this policy and its associated procedures OR to file a complaint under the Discrimination, Bullying and Harassment policy.

6. DISCLOSURES

- 6.1. Survivors may choose to disclose to the University without making a Report. Appropriate support services, reasonable accommodations, and interim safety measures will be made available to all Survivors who Disclose.
- 6.2. Student Survivors seeking support may confidentially disclose to a Student Support Advisor in the Office of Student Affairs.
- 6.3. Employee Survivors seeking support may confidentially disclose to Human Resources, or to the Administrator of their academic or administrative unit.
- 6.4. Survivors do not need to prove that Sexual Violence occurred to access services and accommodation(s). If accommodation is requested for medical reasons, credible medical information may be required.

- 6.5. Survivors who choose to Disclose or Report will not be discriminated against. If they have been engaged in other University processes such as student misconduct, academic misconduct, etc.
- 6.6. Survivors will not be discriminated against if they have engaged in illegal activities or perceived illegal activities that do not pertain to the Sexual Violence incident disclosed, such as sex work or illegal substance use.
- 6.7. Members of the University Community who believe that they may have perpetrated Sexual Violence, can confidentially Disclose to the appropriate resource and receive supports as per the procedures.

7. REPORTING

- 7.1. A Report of Sexual Violence can be made under this policy. Complainants are encouraged to come forward when they feel able to do so. Survivors will not be coerced into reporting and will be provided with all options and information to support them with making the decision to Report.
- 7.2. The procedures for investigating and responding to a Report are set out in B.401.1 – Sexual Violence Procedure.
- 7.3. Investigations and decision-making are guided by the principles of procedural fairness. All evidence will be evaluated based on a Balance of Probabilities basis. Investigations will lead to a decision and consequences in the instances where a Respondent is found to have violated this policy.
- 7.4. If a Complainant discloses the use of alcohol and/or drugs as part of the incident(s), the investigator should not assume that this played a role in causing the incident(s). Furthermore, the use of alcohol and/or drugs by the Respondent does not absolve them of the allegations.
- 7.5. Timeliness of investigation and response will vary based on factors including the availability of witnesses or evidence and/or involvement in other investigations and legal proceedings. As such, any timelines stated in this policy, or its associated procedures, are subject to change in appropriate circumstances.
- 7.6. Where a Report is made of an incident of Sexual Violence by a Member of the University Community or against a Member of the University Community, that poses a risk to the safety of Members of the University Community, the University will take all reasonable steps to ensure the safety of the Survivor and the broader University community, in consultation with University Security and the Duty of Care Committee in line with OP.418 At-Risk Behaviour and Violence Response and Prevention policy.

7.7. The University encourages the responsible action of bystanders. When Members of the University Community witness Sexual Violence they are encouraged to access the appropriate campus resource for advice.

8. INTERIM MEASURES

The University may impose or facilitate appropriate interim measures for the safety of the individuals involved and the University community. Interim measures are not intended to be punitive but are intended to provide a safe(r) environment for all parties, pending an investigation.

9. INVESTIGATION

- 9.1. The procedures for investigating are set out in B.401.1 – Sexual Violence Procedures.
- 9.2. Respondents who are found to have committed an act(s) of Sexual Violence will be held accountable by the University and will be subject to appropriate sanctions.
- 9.3. A Complainant may request that the University appoint an external investigator in circumstances where they perceive a conflict of interest or reasonable belief of bias.
- 9.4. If an investigator has a real or perceived conflict of interest, or there is a reasonable belief of bias, then another investigator will be appointed at the discretion of the University. This may include appointing an external investigator.
- 9.5. If the Respondent's or Complainant's status as a Member of the University Community ceases during a University investigation process, the investigation process will continue to completion.

10. SANCTIONS

- 10.1. Where the findings of an investigation determine that the Respondent is found to have committed an act of Sexual Violence sanctions may include, but are not limited to, the following:
 - a) Letter of reprimand – A formal letter indicating the Respondent's breach of the policy and expected conduct moving forward. Normally, this is only used in the case of first-time incidents, or in addition to other sanctions.
 - b) Educational activity – The Respondent will engage in reflection and growth through participation in tasks such as education, assignments, projects, and/or workshops.
 - c) Loss of privileges or use – A temporary or permanent ban or restriction on the Respondent's ability to access/use University premises or property including classrooms and buildings. This also extends to the use of University sponsored technology such as email accounts.

- d) Removal from a course or program – Involuntary withdrawal from a course or program at the University. This differs from suspension in that the Respondent may still be permitted to register for classes outside of the specified course or program.
- e) Suspension – A temporary leave from the University for a specified period of time, normally including a ban from entering University property or premises unless otherwise stated. Behaviour that occurs during a suspension and falls under the scope of the policy is still actionable by the University. Suspensions for Members of the University Community may only be imposed by the President.
- f) Termination – Permanent removal from the University, normally including a ban from entering University property or premises for a specified period of time. Removal for Students may only be imposed by the President. Termination of Employees may only be imposed by the President.
- g) Other sanctions as required – The University reserves the right to impose sanctions other than those listed in this policy as appropriate.

10.2 Failure to complete or abide by imposed, or agreed-upon, sanctions is considered a further violation of the policy. Breach of sanctions may lead to the imposition of new or escalated sanctions up to and including suspension, or termination according to the Student Code of Conduct Policy (B.701), Standards of Conduct Policy (B.506) and/or the applicable Collective Agreement.

11. ALTERNATIVE RESOLUTIONS

- 11.1. Survivors may request alternative methods of resolution, such as restorative justice or other transformative justice measures. The University will review requests and seek expert advice in determining if this alternative resolution is appropriate and in the interest of all impacted parties.
- 11.2. Restorative or transformative justice processes will only be conducted by University staff trained in these methods, or by an external expert.

12. EDUCATION AND TRAINING

- 12.1. The Office of Student Affairs and Human Resources will work in collaboration with the Capilano Student's Union (CSU) and other on- and off-campus partners to implement an education and prevention plan that is based on evidence informed approaches, research, and subject matter advice.
- 12.2. Members of the University Community who are responsible for formally receiving Disclosures, Reports, conducting investigations, or making outcome decisions or responding to appeals, will receive specialized training.

13. APPEALS

- 13.1. Respondents and Complainants have the right to appeal decisions made through the outcome of a Sexual Violence investigation.
- 13.2. Where the Respondent is a Student, appeals pursuant to the policy are made to the Student Appeals Committee as per the Student Appeals Policy (B.109). For the purpose of determining the submission deadline, the starting date will be the date that the decision is communicated in writing to the Respondent. Students can access support with the appeals process from the Capilano Students Union (CSU).
- 13.3. Where the Respondent is an Employee, any disciplinary action taken as a result of Sexual Violence may be subject to grievance under the relevant Collective Agreement or, where the Employee is not covered by a collective agreement, appealed to the President. Appeals to the President must be filed within twenty-one (21) calendar days of the decision being communicated to the respondent in writing. Any decision by the President respecting an appeal under the policy and its associated procedure will be final, subject only to section 60 of the *University Act*.

14. RETALIATION

The University will not tolerate any retaliation, directly or indirectly, or threats of retaliation against anyone who Discloses, Reports, or who participates in a process that responds to a Report. Members of the University Community who are found to have engaged in such conduct will be subject to sanctions up to and including permanent suspension or termination of employment.

15. GENERAL PROVISIONS

- 15.1. In accordance with the *Sexual Violence and Misconduct Policy Act* this Policy will be reviewed every three years or when directed to by the Ministry. The policy review process will include consultation with Members of the University Community.
- 15.2. A public annual report including the annual budget assigned to Sexual Violence prevention and response will be produced by the Office of Student Affairs in collaboration with Human Resources and the Capilano Students' Union (CSU).
- 15.3. Annually, the President will report to the Board of Governors on the implementation of this policy.

16. DESIGNATED OFFICER

The Vice-President of Strategic Planning, Assessment, and Institutional Effectiveness is the Policy owner, responsible for the oversight of this policy. The administration of this policy and the development, subsequent revisions to and administration of any associated procedures is the responsibility of the Associate Vice President, Student Success.

17. REFERENCES

Sexual Violence and Misconduct Policy Act, SBC 2016 c.23

Freedom of Information and Protection of Privacy Act, RSBC 1996, c.165

Human Rights Code, RSBC 1996, c.210

Workers' Compensation Act, RSBC 1996, c.492

BC Occupational Health and Safety Regulation

Final report of the Truth and Reconciliation Commission of Canada: Summary: honouring the truth, reconciling for the future.

Reclaiming Power and Place: The final report of the National inquiry into missing and murdered Indigenous women and girls.

Trauma and violence-informed approaches to policy and practice. Public Health Agency of Canada. (2018).

Our Turn: A national, student-led action plan to end campus sexual violence. Salvino, C., Gilchrist, K., Cooligan Pang, J. (2017).

Evaluating Sexualized Violence Training and Resources. SVM Training and Resources Working Group. (2020).