

Sexualized Violence



900 McGill Road
Kamloops BC V2C 0C8
tru.ca

POLICY NUMBER BRD 25-0
AUTHORITY Board of Governors
PRIMARY CONTACT Dean of Students

POLICY

I. **GENERAL**

All members of the University Community¹ have the right to work, teach and study in an environment that is free from any form of Sexualized Violence. Sexualized Violence will not be tolerated at the University.

The University is committed to raising awareness and educating the campus community about Sexualized Violence, developing a consent culture, reducing the risk of incidents of Sexualized Violence, responding to the needs of Victims/Survivors for support and empowerment, and to responding to incidents of Sexualized Violence effectively and fairly.

The University is committed to supporting the development and implementation of ongoing education and awareness initiatives for all members of the University Community about Sexualized Violence, Sexualized Violence prevention and how to respond to the Disclosure of incidents of Sexualized Violence.

The University recognizes that Sexualized Violence is overwhelmingly committed against women, particularly younger women and women who experience multiple intersections of disadvantage such as, but not limited to, Indigenous women, women with disabilities, and racialized women. The University also recognizes that members of the LGBTQ2S+ communities and those whose gender identity or gender expression does not conform to accepted gender norms, such as gender-variant, Trans or Two-Spirit people are also at heightened risk of Sexualized Violence.

The University is committed to combatting broader social attitudes about gender, sex and sexuality that normalize Sexualized Violence and undermine equality.

The University is committed to taking a trauma informed approach to Sexualized Violence, recognizing that victims and survivors may be traumatized by their experiences and that the University's approach needs to be grounded in an understanding that peoples' experiences will be affected by many factors such as their sex, ancestry, race, ethnicity, language, ability, faith, age, socioeconomic status, sexual orientation, and gender identity. The University is committed to ensuring a safe environment for all and will take appropriate measures to prohibit visitors and others from campus that pose a threat to a safe environment.

¹ Capitalized terms in this Policy have the meanings set out in Article I of the Regulations to this Policy.

REGULATIONS

I. **DEFINITIONS**

1. **Complainant**
A person who Reports an incident of Sexualized Violence.
2. **Consent**
The voluntary agreement to engage in the sexual activity in question and to continue to engage in the activity. Voluntary agreement to engage in the activity or to continue to engage in the activity must be communicated through words or conduct and can be revoked at any point. Consenting to one kind of sexual activity does not mean that consent is given for another sexual activity, and consent only applies to each specific instance of sexual activity. No consent is obtained where a person is incapable of consenting, for example, by intoxication, or where a person is induced to engage in the activity by someone abusing a position of trust, power or authority.
3. **Disclose or Disclosure**
The sharing of information regarding an incident of Sexualized Violence with a member of the University Community. This is not the same as a formal Report, which activates the University's duty to investigate.
4. **Investigation**
The act of formally examining events and behaviors represented in a Report in order to determine whether there has been a breach of the Policy. For the purposes of this Policy, an Investigation begins when the appointed investigator first contacts the Complainant(s) and the Respondent(s) and ends when the Investigator submits their report.
5. **Report**
A formal Report of an incident of Sexualized Violence for the purposes of initiating investigative processes. (See Investigation above.)
6. **Respondent**
An individual who is alleged to have perpetrated Sexualized Violence.
7. **Responsible Officer**
In receiving a Report from the Sexualized Violence Prevention and Response Manager and conducting the initial review under section VI, the Responsible Officer will be:
 - (a) for Students, the Director of Student Affairs office; and
 - (b) for non-Students, the Executive Director of Human Resources.

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8. Sexualized Violence

An umbrella term that encompasses any sexual act or act targeting a person's sexuality, gender identity or gender expression, whether the act is physical or psychological in nature, that is committed, threatened or attempted against a person without the person's consent. It varies in severity and takes many forms, including but not limited to:

- (a) sexual assault, which is any form of sexual touching without the individual's consent²;
- (b) sexual exploitation, which occurs when a person who is in a position of trust or authority towards a young person, who is a person with whom the young person is in a relationship of dependency or who is in a relationship with a young person that is exploitative of the young person, and who
 - i. for a sexual purpose, touches, directly or indirectly, with a part of the body or with an object, any part of the body of the young person; or
 - ii. for a sexual purpose, invites, counsels, or incites a young person to touch, directly or indirectly, with a part of the body or with an object, the body of any person, including the body of the person who so invites, counsels or incites and the body of the young person.
- (c) sexual harassment, which is conduct of a sexual nature by one who knows or ought reasonably to know that the behaviour is unwanted or unwelcome, and which interferes with another person's participation in a University-related activity, or leads to or implies job or academically-related consequences for the person harassed;
- (d) stalking, which is engaging in conduct that causes an individual to fear for their physical or psychological safety, such as repeatedly following or communicating through any means with someone, engaging in threatening conduct, or keeping watch over the place where that individual happens to be;
- (e) indecent exposure, which is exposing one's body to another individual for a sexual purpose or coercing another individual to remove their clothing in order to expose their body, without consent;
- (f) voyeurism, which is non-consensual viewing, photographing, or otherwise recording another individual in a location where there is an expectation of privacy and where the viewing, photographing or recording is done for a sexual purpose; and
- (g) the distribution of a sexually explicit photograph or recording of an individual to one or more individuals other than the individual in the photograph or recording, without the consent of the individual in the photograph or recording.

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Sexualized Violence is used in this policy as a synonym for Sexual Misconduct.

9. Student

A Student includes any of the following: an undergraduate who is enrolled at the University for one or more of the last two terms (including in a practicum placement, cooperative education or study abroad) and is eligible to continue in a program of study; a graduate student who is enrolled at the University in the current term and is eligible to continue; a graduate student who is on leave and eligible to enroll at the University when the approved leave ends; a visiting or exchange or special audit student who has been

² This includes stealthling, which is the removal of a condom during sex without the consent of the partner.

formally admitted to the University for the purposes of taking courses or to take part in an approved research term; a graduate student who is enrolled in courses at the University as a qualifying student; or a person enrolled at the University in a non- credit program or course.

10. Third Party

Someone who experiences or is aware of an incident of Sexualized Violence, but is not personally subjected to the Sexualized Violence (i.e.: is not a Victim/Survivor in the current circumstances).

11. University Community

Members of the University Community include Students, employees and any person holding a University appointment. People who visit or reside on a TRU campus but who are not a student, employee or person holding a University appointment are not a member of the University Community for the purposes of this Policy.

For the purposes of this definition:

a) "employee" means:

- i) a person employed by the University;
- ii) a person employed under a Part-Time Instructional Contract;
- iii) a visiting scholar or professor;
- iv) an adjunct faculty member;
- v) a Post-doctoral fellow; or
- vi) anyone otherwise employed by a subsidiary of the University (as defined in the British Columbia *Business Corporations Act*).

b) "person holding a University appointment" means: any person holding an appointment to instruct students or carry out research at the University, appointed members of the governing board of the University or of any University subsidiary.

12. Victim/Survivor

An individual who has been directly subjected to Sexualized Violence.

II. **SCOPE**

1. This Policy applies to all members of the University Community.
2. Any member of the University Community may access support upon making a Disclosure of Sexualized Violence, regardless of whether or not the person wishes to make a Report of Sexualized Violence, or whether the University has jurisdiction to adjudicate. Support is provided to Victims/Survivors of Sexualized Violence regardless of when the events occurred or whether the perpetrators of the Violence are members of the University Community.

3. For the purposes of University investigations and discipline, this policy applies only to Sexualized Violence by a member of the University Community against another member of the University Community that is Reported to the Sexualized Violence Prevention and Response Manager and that is alleged to have occurred:
 - a. on any property that is controlled by the University and used for University purposes including student residences owned by the University but excluding activities that are in the exclusive control of organizations other than the University;
 - b. at an event or during an activity sponsored or under the auspices of the University; or
 - c. online, using the University's Information and Communications Technology; or
 - d. when the Respondent was in a position of power or influence over the survivor's academic or employment status; or
 - e. the alleged conduct has a real and substantial connection to the University.
4. This policy is not intended to supersede or interfere with any collective agreement or applicable laws including the Canadian Criminal Code or the BC Human Rights Code. Sexualized Violence captured by this policy may also be captured by another University policy. If that is the case and the Victim/Survivor wishes to Report the Sexualized Violence, then the Victim/Survivor may elect to proceed under one policy or the other. The Victim/Survivor's choice, once made, is irrevocable with one exception: if the Responsible Officer determines that the behavior does not fall within the scope of another policy, then the Victim/Survivor may choose to proceed under this Policy.
5. Individuals have the right to pursue legal avenues whether or not they choose to proceed under this policy. Subject to section IV(6) below, individuals may also choose to forego criminal and University investigative avenues, opting to choose confidential Disclosure to the Sexualized Violence Prevention and Response Manager for access to ongoing support.
6. The University will not tolerate any retaliation, direct or indirect, against anyone making, or involved in a Disclosure, a Report, or an Investigation. A finding of retaliation may result in separate disciplinary action.

III. **EDUCATION and AWARENESS**

1. The University's Sexualized Violence Prevention and Response Manager will collaborate with campus partners including, but not limited to, Counselling, the Wellness Centre, university residences and Human Resources, to develop and implement an annual education strategy. This strategy will include programming that:
 - a. Promotes a culture of Consent;
 - b. Addresses issues of Sexualized Violence; and
 - c. Facilitates access to support mechanisms for members of the University Community that experience Sexualized Violence.

2. Sexualized Violence information and education will be provided to new incoming Students and Employees each semester through either online or in-person orientation programming. Mandatory training will be provided to all faculty, staff and administrators on the fundamentals of receiving a disclosure and providing supports. Enhanced training will be provided to individuals in senior roles, and others as appropriate.
3. The University will work with campus partners to provide ongoing awareness, education and training opportunities throughout the academic year for all members of the University Community. Specific attention will be given to issues of Consent, healthy relationships, bystander intervention strategies, and policies and procedures for responding to Sexualized Violence.
4. Education and training initiatives will take an intersectional approach to understanding Sexualized Violence, and due care will be taken to ensure that contact and delivery of training materials is appropriate for each audience and context.
5. The University will make training related to the policy and procedure herein available for all members of the University Community.
6. The University will maintain a website that includes information about Sexualized Violence, Consent, Disclosures and Reporting. It will also provide clear guidance to those that have experienced Sexualized Violence, or who are supporting someone who has, as to how and where to access supports and information.

IV. **DISCLOSURE and SUPPORT**

1. The University recognizes that Victims/Survivors may require different services, resources, and supports at different stages of their recovery process. Accordingly, the University is committed to providing support mechanisms and treating each individual with compassion.
2. A member of the University Community who has been subjected to Sexualized Violence may choose to disclose the experience by confiding in another member of the University Community. This is a Disclosure. A Disclosure is not the same as a Report under section V of this Policy. A Disclosure normally does not initiate an investigation or other process. To initiate a process, an incident of Sexualized Violence must be reported to the Sexualized Violence Prevention and Response Manager.
3. The University will support University Community members in Disclosing or Reporting incidents of Sexualized Violence. People may choose one or more of the following options:
 - (a) Disclosing to one or more members of the University Community;
 - (b) Reporting to the University as set out below in section V(3);
 - (c) Reporting to the police anonymously through a third party arrangement;
 - (d) Reporting directly to the police.
4. Individuals who Disclose or Report Sexualized Violence will be given access to support services available on campus or supported in accessing services in the community.

5. Assistance will be provided to Victims/Survivors by working with them to determine the level of support, workplace and/or academic accommodations, as well as providing referrals to counseling and medical care or other services as required/requested. Student Development will provide support for Students, and Human Resources will provide support for employees. Detailed information about on and off campus supports is provided on the TRU website.
6. Support for the Victim/Survivor may include on-campus safety planning provided by the University. Off-campus safety planning may be available from community partners.
7. Victims/Survivors need only disclose their experience to seek support and will not be required or pressured to make a formal Report to University authorities or the police. In some cases, where campus or community safety is at risk the University may need to take some action without the Victim/Survivor's consent, including investigating the incident pursuant to this Policy. If this is necessary individuals affected will be fully informed and supported at every step of any process.
8. Members of the University Community who receive a Disclosure are required to contact the Sexualized Violence Prevention and Response Manager.
9. The University is committed to supporting members of the University Community who are accused of Sexualized Violence under this Policy. The University will facilitate the Respondent's access to a support person.

V. **REPORTING OPTIONS**

1. Victims/Survivors have the right to choose whether or not to Report an incident of Sexualized Violence to which they have been subjected. A Report is not the same as a Disclosure under section IV. A Disclosure normally does not initiate an investigation or other process.
2. To pursue criminal charges, a Victim/Survivor may choose to make a report to police. Victims/Survivors may do this on their own, or will be assisted in making such a report if they request such assistance.
3. Victims/Survivors who wish to Report Sexualized Violence to the University, can be supported in doing so by the Sexualized Violence Prevention and Response Manager. Reports will be directed to the appropriate Responsible Officer. A Report will be signed and dated by the Complainant, and a copy of the report will be given to the Complainant.

In the case where the Respondent is both a Student and an employee of the University, the Office of Student Affairs designate will receive the Report.

4. Victims/Survivors may report incidents of Sexual Harassment to the BC Human Rights Tribunal as a form of discrimination. The Tribunal may decline to adjudicate such a report if it could be addressed under a University policy (www.bchrt.bc.ca/process/steps.htm).

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5. Where criminal, civil, or administrative proceedings are commenced in respect of allegations of Sexualized Violence, the University reserves the right to proceed with or suspend its own processes.
6. Third parties may Report incidents of Sexualized Violence to the University. The University will accept Reports from third parties for the following purposes:
 - (a) to compile for statistical purposes;
 - (b) to consider whether it provides evidence that a person poses a safety concern to the University Community; and
 - (c) to determine whether further investigation is appropriate.

VI. **INVESTIGATION**

1. In this section, the person making the Report of Sexualized Violence is called the Complainant, and the person against whom the allegations are made is called the Respondent.
2. The Responsible Officer will complete an initial review of the Report to determine:
 - (a) whether the Report falls within the Scope of this Policy; and
 - (b) whether, if true, the allegation forming the basis of the Report would fall within the definition of Sexualized Violence, as set out in Section I of this policy.

The Responsible Officer will advise the Complainant of the result of the review, the reasons for the result, and whether or not the Respondent will be notified of the Report. The Complainant will continue to be supported as set out above in any event. If the Responsible Officer determines that one or both of the above tests are not met, the University will not conduct any further investigation into the Report under this policy unless the safety of the Complainant or any member of the University Community is at risk. The Responsible Officer will normally not advise the Respondent of the Report unless the review tests are met. The Responsible Officer may recommend to the Complainant other forms of resolution, such as through another University policy or one of the other reporting options in section V, above.

3. If the Report satisfies both tests of the initial review, the Responsible Officer will send written notice of the Report to the Respondent, which written notice will include the following:
 - (a) the nature of the allegation with sufficient detail to permit the Respondent to respond;
 - (b) a link to the digital version of this policy;
 - (c) an indication that the Respondent's conduct may be subject to sanctions by the University; and
 - (d) information about where the Respondent may seek assistance.

A copy of the written notice will be sent concurrently to the University's Legal Counsel (the in-house position of that title at the University). The Responsible Officer will let the Complainant know that notice will be given to the Respondent prior to sending such notice.

4. To protect the integrity of the Investigation, the University will normally issue a no-contact order to both the Complainant and the Respondent. Such an order will allow the Complainant and Respondent to continue to participate in activities at the University, but will prohibit them from communicating directly with each other. A breach of a no-contact order may result in separate disciplinary action.
5. In addition to a no-contact order, where circumstances warrant it, such as when the safety, security, or well-being of a member of the University Community is at risk, the University may implement interim measures against the Respondent. Interim measures are separate from supports provided to the Victim/Survivor, which will be provided as per section IV, above. Interim measures will only be implemented after providing the Complainant and the Respondent an opportunity to comment regarding the implementation of such measures, which measures may include, but are not limited to, restricting access to part or all of the University campus. Interim measures will be non-disciplinary, will have no bearing on the consideration of the merits of the Report and must be reviewed or cancelled after 14 days.
6. Legal Counsel will review the Report and the written notice from the Responsible Officer and initiate one of the following processes:
 - (a) investigation by an internal investigator;
 - (b) investigation by an external investigator selected and retained by Legal Counsel; or
 - (c) at the Complainant's request, and if Legal Counsel believes that an alternative dispute resolution ("ADR") process may be appropriate in the circumstances, Legal Counsel will contact the Respondent to discuss the option of engaging in an ADR process. If the Respondent agrees to participate in an ADR process, then Legal Counsel will explore the options available and with the agreement of the Complainant and the Respondent, will refer the matter to the appropriate ADR process for resolution. Participation in an ADR process is entirely voluntary. If either the Complainant, the Respondent or Legal Counsel decides at any time that the ADR process is no longer appropriate, then the matter will be referred back to Legal Counsel, who will appoint an Investigator under subsection a or b.
7. Once an investigator has been selected, the investigator will send notice of investigation to the Respondent, which will include the following:
 - (a) the name of the investigator;
 - (b) the nature of the allegation;
 - (c) a link to the digital version of this policy;
 - (d) a request to conduct interview(s);
 - (e) a request for any written submissions from the Respondent;
 - (f) an indication that certain conduct may be subject to sanctions by the University;
 - (g) information about where the Respondent may seek assistance.

The investigator will let the Complainant know that notice will be given to the Respondent prior to sending such notice.

8. The investigator will then contact the Complainant and any witnesses, and will arrange to conduct interviews and receive any written submissions.
9. All parties interviewed by the investigator will have the right to have a support person present.

10. The investigator will examine all of the information submitted by all witnesses and any other information gathered during the investigation and conduct all interviews in a fair, impartial and professional manner.
11. The investigator will give the Complainant and the Respondent an opportunity to respond to evidence considered by the investigator in the course of the investigation. Either the Complainant or the Respondent may request that the investigator ask questions of the other or any person related to the evidence. The investigator will determine whether or not to ask such questions. The investigator will refuse to ask questions that have no evidentiary or probative value and that are likely only to intimidate or harass another person.
12. Should any individual refuse to provide a statement or participate in an investigation, the investigation will proceed and outcome(s) will be based on the available information.
13. The investigator will endeavor to complete the investigation within 60 days of being appointed.
14. Upon completion of the investigation, the investigator will send to Legal Counsel a report (the "Investigator's Report"), which will include:
 - (a) a summary of the allegation giving rise to the Report;
 - (b) a summary of relevant evidence gathered during the investigation; and
 - (c) the investigator's findings of fact, including whether the alleged conduct occurred, on a balance of probabilities, and whether the conduct was a contravention of this policy.
15. Legal Counsel will provide a copy of the Investigator's Report to the President, the Complainant and the Respondent.
16. The President will review the Investigator's Report and may request further information from Legal Counsel and the Investigator before making a determination with regard to any sanction. The President may consider as well the possibility that another TRU policy was breached, based on the findings of the Investigator. The Complainant and the Respondent will have the opportunity to give comment on the Investigators' Report and the appropriate sanction. The Complainant may submit a victim impact statement at this time.
17. The President will decide whether to adopt the investigator's report and conclusions. In the case of a student Respondent, the President may determine what sanctions, up to and including suspension or expulsion, are appropriate. In the case of an employee Respondent, the President may determine what sanctions, up to and including termination of employment, are appropriate.

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18. The President will arrange for a response letter to be sent to both the Complainant and the Respondent (the "Outcome Letter") which will contain the following:

- (a) whether or not a breach of the policy was found to have occurred; and
- (b) the sanction imposed against the Respondent, which will be redacted from the letter to the Complainant unless knowledge of the sanction is necessary to protect the Complainant's health or safety.

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19. Any witness is entitled to receive, upon request, information that constitutes Personal Information of that witness, as defined in the *Freedom of Information and Protection of Privacy Act*.

VII. USE OF INFORMATION

1. University faculty or staff must keep confidential all information provided in, or arising from, or in connection with, a Disclosure or Report ("**Confidential Information**"), except as set out below in sections VII (2), (3) and (4). Unauthorized release of Confidential Information may violate the *Freedom of Information and Protection of Privacy Act*, may deter others from coming forward if they have been experienced Sexualized Violence, and may also prevent the University from conducting a fair process if a Report is made.
2. The University will share Confidential Information with its faculty and staff if the information is necessary for the performance of their duties including carrying out an Investigation described in section VI, above.
3. The University will share Confidential Information in order to ensure that the Reporting processes are fairly conducted, in accordance with the following principles:
 - (a) the Respondent has the right to know the identity of the person who made the Report and the pertinent details of the allegations made against them;
 - (b) the Complainant has the right to know the outcome of the investigation, and the details of any disciplinary actions that may have been taken against the Respondent if sharing these details is necessary for the protection of the Complainant's health or safety; and
 - (c) other persons will be provided Confidential Information only to the extent required to conduct the investigation.
4. General Counsel may also authorize the sharing of Confidential Information in any of the following circumstances:
 - (a) the person the information is about has consented in writing;
 - (b) sharing the information is necessary for the protection of health or safety;
 - (c) preparing or obtaining legal advice for the University; and
 - (d) sharing the information is otherwise authorized or required by law.

VIII. ROLES AND RESPONSIBILITIES

1. President
 - The President will report annually to the Board on progress with implementing this policy

2. Dean of Students and the Faculty of Student Development
 - Work in close partnership with the Executive Director - Human Resources on the interpretation and application of this policy.
 - Liaise with internal and external partners to support Students who have experienced Sexualized Violence.
 - Ensure appropriate supports are in place for Student Victims/Survivors through counseling and other support services.
 - Work with faculty and academic departments to support Students with academic accommodations where required.
 - Develop and implement Sexualized Violence Prevention and Awareness Programs.
 - Is responsible for the University's website on Sexualized Violence.

3. Executive Director - Human Resources and Risk Management Office
 - Work in close partnership with the Dean of Students on the interpretation and application of this policy.
 - Ensure appropriate supports are in place for employee Victims/Survivors through HR benefits, programs and the Employee Assistance Program.
 - Work with academic and/or administrative managers and supervisors to support employees with workplace accommodations where required.
 - Ensure appropriate security, safety and emergency management practices and services are provided.

4. Faculty and Academic Departments
 - Cooperate to the extent possible with Students or their advocates seeking academic accommodation following an incident of Sexualized Violence

5. All members of the University Community
 - Participate in education and awareness programs
 - Support any individuals who Disclose an incident of Sexualized Violence and refer them to appropriate support services
 - Work with faculty, academic departments and administrative departments to support Victims/Survivors of Sexualized Violence when required.

6. Any employee of the University, other than the President, who has a responsibility under this Policy may, with the consent of a Vice-President, designate in writing, another person to fulfill that responsibility.

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IX. RELATED POLICIES AND PROCEDURES*

Respectful Workplace and Harassment Prevention, BRD 17-0
http://www.tru.ca/_shared/assets/brd17-016383.pdf

Suggested Procedures for Dealing with At-Risk Students, ADM 17-0 http://www.tru.ca/_shared/assets/Suggested_Procedures_for_At_Risk_Students_5595.pdf

Suspension of Students, ED 7-0
http://www.tru.ca/_shared/assets/ed07-05659.pdf

Information Disclosure, ADM 02-1
http://www.tru.ca/_shared/assets/Information_Disclosure5612.pdf

*(University Policies and Procedures change from time to time. For an up-to-date record of University Policies and Procedures, please go to <http://www.tru.ca/policy/allpolicy.html>

Deleted: This policy comes into effect on April 1, 2017, provided that training for existing employees of the University per section III.2 will take place prior to October 1, 2017.