

<b>Policy Name:</b>	Sexualized Violence		
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<b>Volume:</b>	5. Office of Human Resources	<b>Responsible Executive:</b>	Director, Human Resources
<b>Chapter:</b>	8. Sexualized Violence	<b>Responsible Office:</b>	Human Resources
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### Policy Statement

The purpose of this policy is to outline NSCAD University’s commitment to creating and sustaining a safe community, where sexualized violence is addressed through recognition of its severity, as well as providing supports, education, training, and resources. This policy outlines the procedures for reporting incidents of sexualized violence, initial points of contact and the appropriate measures for handling complaints of sexualized violence. Further, it outlines the institutional approach, resources, and campus prevention strategies.

### Reason for Policy

To ensure that NSCAD University develops and supports a safe environment that values and promotes principles of diversity and inclusion as well as denounces sexualized violence. Further, it is used to define sexualized violence and its related terms and clarify institutional accountabilities.

### Policy Applies to

This Policy and the related procedures apply to all members of the University Community and all visitors; therefore, anyone who is an employee or student of the University engaged in duties, programs, operations or activities having a substantial connection to the University, on or off campus.

Third parties, including but not limited to, contractors, volunteers and visitors to the University are expected to conduct themselves in a manner consistent with this Policy. Compliance with this Policy shall be a term of all contracts and agreements with the University and is a condition of access to the University.

This Policy is not intended to discourage or prevent individuals from exercising any other legal rights they may have pursuant to any other law, including the right to file a complaint with the Nova Scotia Human Rights Commission. This policy is intended to support and clarify the protection provided by Provincial law, other university policies and regulations or legal documents of the University.

### Who Should Read this Policy

- All members of the university community
- All regular staff members
- All students
- Senior Administration, Directors, and Division Chairs
- University Board of Governors
- Human Resources representatives

## Contacts

Approval authority: Board of Governors, Governance & Human Resources Committee c/o Governance Office, 902-494- 8114, [governance@nscad.ca](mailto:governance@nscad.ca), [nscad.ca/policy](http://nscad.ca/policy).

## Definitions

**“Accused”**: means the person who is alleged to have perpetrated an act of sexualized violence.

**“Coercion”**: is the act of persuading or pressuring someone to do something by using force, bribing or threats. In the case of sexualized violence, it is the act of pressuring, bribing or persuading someone into sexual activity.

**“Complaint/Report”**: is the means of informing an individual who has authority to discipline an alleged perpetrator of sexualized violence for the purposes of initiating a disciplinary/investigative process.

**“Complainant”**: is someone who has made a disclosure, complaint or report under the sexualized violence policy. This person may be a bystander, a friend and/or support or the victim/survivor themselves.

**“Victim/Survivor”**: is the person who has experienced sexualized violence. NSCAD University recognizes that the terminology “Victim/Survivor” may not be the personal preference of an individual, as it may not adequately describe their experiences. While NSCAD University will use the terminology “Victim/Survivor” throughout this policy, the University respects the wishes and rights of an individual to identify with their preferred terminology, and the person is not required to identify with “Victim/Survivor” terminology to be covered by this policy.

**“Confidentiality”**: is the responsibility or obligation of NSCAD University to ensure that personal information is kept secure and is collected, accessed, used and disclosed appropriately and within legal obligations.

**“Consent”**: means active, direct, enthusiastic, informed, unimpaired, and voluntary. Consent reflects a conscious choice and agreement to engage in any form of sexual activity. Consent cannot be given by someone impaired by drugs and/or alcohol, or by any other form of impairment. The use of drugs and alcohol is also not a valid excuse for saying a person believed that there was consent in an incident of sexualized violence. Therefore:

1. Consent can be revoked at any time during sexual activities, even if a person initially said yes.
2. Consent cannot be assumed or implied.
3. Consent cannot be coerced, begged for, or obtained through threats.
4. Consent is not just the absence of “no” as body language and non-verbal cues can indicate discomfort. Those engaging in sexual activity must exchange an enthusiastic “yes” (understandable affirmative clear words) and to check in periodically to ensure ongoing willingness to participate in mutually agreed upon sexual activity.
5. A person impaired by alcohol and drugs cannot consent, nor can an unconscious person or someone who is asleep.
6. Consent cannot be given to a person who, in an act of sexualized violence, is abusing a position of power, trust, and/or authority.

**“Disclosure/Disclose”**: means sharing information of an incident of Sexualized Violence for the purposes of learning about and/or accessing supports, services and accommodations.

**“Investigator”**: is a person who may be hired by the University or Sexualized Violence Response Team (SVRT) to investigate disclosures of sexualized violence at NSCAD. This person will have demonstrated experience investigating sexualized violence, and a firm understanding of sexualized violence protocols, procedures and legality. An investigator will not be hired in every circumstance and thus, it is not meant to dissuade Complainants and/or Victims/Survivors from disclosing. For more information about when or why the SVRT may hire an investigator, refer to Section 7.1.2. If the SVRT chooses to hire an Investigator, the Complainants and/or Victims/Survivor will be consulted.

**“No-Contact Order”**: is a University order that prohibits a person from being in physical or verbal contact, either directly or indirectly, with another person.

**“Rape Culture”**: is a sociological term used to define a culture in which dominant ideas, social practices, media images and societal institutions implicitly or explicitly condone sexual assault by normalizing or trivializing sexual violence and by blaming survivors for their own abuse. Rape culture is supported by systems of patriarchy that uphold gender roles and value aggressive masculinity. Patriarchy perpetuates oppressive gender roles, the gender binary, transphobia, homophobia, sexual aggression, and more.

**“Sexualized Violence”**: means any non-consensual sexual act or sexual act targeting a person’s sexuality, gender identity, or gender expression, whether the act is physical or psychological in nature, that is committed, threatened, attempted against a person without their consent. This also includes any form of technology facilitated sexual violence, which is a range of unwanted sexual behaviours or harassment that are facilitated by using technology and/or the internet. This also includes sexual harassment, sexual assault, stalking, indecent exposure, voyeurism, sexual exploitation, “stealthing” (unknown removal or deceit of contraceptive), technology facilitated sexual violence and includes, but is not limited to:

**“Sexual Activity”**: Variety of sexual acts and activities ranging from activities done alone (i.e., masturbation) to any sexual action done with someone else (i.e., penetrative intercourse, non-penetrative intercourse, oral sex). This includes sending or receiving sexually explicit image, text messages, or videos. Sexual activity may include any type of behaviour that tries to arouse sexual interests or improve upon the sexual relationship.

**“Sexual Assault”**: Any form of sexual activity, which may include (but is not limited to) kissing, fondling, touching, rubbing against, intercourse, or other forms of sexual penetration that is forced or conducted onto someone without their consent or any attempt or threatens, by words, acts or gestures, to force sexual activity onto someone. Sexual Assault is a criminal offence and illegal under the Criminal Code of Canada.

**“Sexual Harassment”**: Unwelcome or unwanted sexual advances, comments, requests for sexual favours, and other verbal or physical conduct of a sexual nature. It is a course of vexatious comments that ought to be known is unwelcome. Some examples of sexual harassment:

1. Unwanted sexual attention and solicitation
2. Implied or expressed promise of reward for complying with a sexually oriented request
3. Inappropriate sexual comments about clothing, personal behavior or a person’s body
4. Telling sexual or sex-based inappropriate jokes or sharing sexual anecdotes
5. Sending unwanted suggestive letters, notes or e-mail
6. Requesting sexual favours, making sexual innuendos or repeatedly asking someone out
7. Repetitively, and/or without respect, inquiring or questioning someone’s sexual orientation
8. Making derogatory remarks about a person’s sexual orientation or gender identity

9. Making derogatory sexual remarks about a person's race, religion, culture or ethnicity
10. Whistling or staring in a sexually suggestive or offensive manner
11. Offensive gestures or facial expressions of a sexual nature
12. Sharing, distributing, or posting unwanted posters, drawings, pictures, screensavers, memes, emails, text messaged or private messages that are of sexual nature
13. Sharing sexually inappropriate images or videos, such as, but not inclusively, pornography
14. Displaying inappropriate sexual images or posters in the working and learning environment which are not part of the legitimate study, display, use or distribution of topics, material or art forms falling within appropriate academic, contemporary art/design/media discourse within the context of an art and design university.

Sexual Harassment is prohibited under provincial human rights legislation.

**“Survivor-centric”**: means designing and developing programming that ensures that “Victims’/Survivors” rights and needs are of the highest priority. The “Victim/Survivor” has a right to be treated with dignity and respect void of victim-blaming attitudes; choose the course of action in dealing with the violence; be responded to with an emphasis on privacy and confidentiality; and, participate in non-discriminatory practice.

**“Trauma-informed”**: means a framework grounded in an understanding and responsiveness to the profound and complex impact of trauma, that highlights physical, psychological, and emotional safety for survivors and that understands how trauma may impact someone's everyday behaviour, thoughts and activities.

**“University community”**: means any person that has a substantial connection to the University and may include someone who teaches, conducts research, studies or works at NSCAD University including but not limited to:

1. Full or part time academic staff
2. Full, part time, continuing, temporary, contract or administrative staff members
3. All students
4. Contractors
5. Volunteers
6. Visitors

## THE POLICY

### Introduction

#### 1. Preamble

NSCAD University is committed to both creating and sustaining a safe community where sexualized violence is recognized, and where victims and survivors will be heard. This vision will be fostered by using proactive, transparent, effective approaches to prevent and respond to sexual violence. Sexualized violence will be recognized and treated with the seriousness that it deserves. NSCAD University recognizes that there are intersecting facets of systemic discrimination and social barriers that leaves members of equity-seeking groups disproportionately impacted by sexualized violence. Further, the University is committed to striving toward an equitable environment for all members of the University Community taking into account race, gender, gender identity and expression, ethnicity, Indigenous identity, religion, sexual orientation, disability, and class. Each member of the University Community deserves to feel respected, believed, and safe from sexualized violence.

The University has a role in assisting with the prevention of and response to sexualized violence. NSCAD University recognizes that sexualized violence is often under-reported for various reasons, some reasons (although not exhaustive) involve power-imbalances, fear of stigmatization, secondary-victimization, and difficulties with reporting sexualized violence. Victims/Survivors may have varying degrees of confidence in systematic services and institutional policies (police, universities, courts, etc.) because of histories of sexism, colonialism, racism and other forms of systematic oppression. Thus, this policy focuses on ensuring support for Victim/Survivors, as opposed to attributing fault of responsibility. The university commits to support Victims/Survivors based on their lived experiences, regardless of where there has been a criminal investigation, civil investigation, human rights commission adjudication, and/or whether or not the Victim/Survivor and/or Complainant has chosen to follow the University's investigative processes.

NSCAD University is also committed to recognizing the far-reaching effects of trauma on various aspects of a victim's/survivor's life. NSCAD University understands that trauma can cause numerous changes to occur that inhibit a person's daily functioning, and make it difficult for victims/survivors to live their life in the ways that they would like to. These effects are unique and individual to each victim/survivor, and NSCAD University will recognize these differences.

## 2. Scope

This policy confirms NSCAD University's position on sexualized violence and the standards for disclosure of sexual violence incidents and/or complaints from any members of the University Community, and the processes outlined for investigating incidents of sexual assault and harassment. NSCAD University has other policies in place that may pertain to sexualized violence, such as the Respectful Workplace and Learning Environment Policy.

- 2.1. The application of this policy applies to all university-related activities, programs, and operations. It also includes all activities while participating in university sponsored events or sanctions (such, but not limited to, field trips, events, conferences, and social functions). Further, it applies to all non-University events where there may be a negative impact on participation by a Member of the University Community in University programs, operations and activities.
- 2.2. This policy is designed to complement other policies and is not intended to interfere with or supersede any other University policy or prevailing law. This policy will not be applied or interpreted in such a way as to detract from the right of those in supervisory roles to manage and discipline employees or students in accordance with normal University practices or from any existing rights or obligations contained within any existing code of student conduct, collective agreement or other approved employee agreement.
- 2.3. This policy is to be interpreted and administered in a manner that is consistent with the principles of academic freedom and is not intended to detract from the right to engage in discussions of potentially controversial matters including, but not limited to age, race, politics, religion, sex, and sexual orientation provided that such discussion and instructional techniques are conducted in a mutually respectful and non-coercive manner.

## 3. NSCAD University's Values and Commitment

**NSCAD University has several core values and commitments in relationship to this policy. They are:**

- 3.1. Sexualized violence is unacceptable and prohibited conduct at the University.

- 3.2. Each member of the University Community has the right to study, practice, create, and work in an environment that is free of sexualized violence which is balanced on NSCAD's values of Respect, Trust, Collegiality and Pride;
- 3.3. The University first seeks to prevent and then redress sexualized violence, by intervening and speaking out when the University sees it occurring;
- 3.4. This policy aims to be both survivor-focused and trauma-informed. Therefore, Victims/Survivors are to be treated with empathy, compassion, and with respect for their dignity, confidentiality, and autonomy in accordance with all provisions of this policy, including disclosure, response, and where applicable, during investigation a third part support can be provided (when and as needed);
- 3.5. The University recognizes that sexualized violence can have intense negative impacts on physical, mental, emotional, spiritual and social well-being and health. As such, the acknowledgement of trauma's potentially negative effects are imperative, and Victims/Survivors will be provided with emotional support, accommodations and information available to them. Some examples (although not an exhaustive list) of these accommodations is included in Section 6.1 (Interim Measures);
- 3.6. The University recognizes Victims/Survivors and/or Complainants as the decision-makers, capable of making their own decisions in their best-interest which also allows them the choice to stop participating;
- 3.7. The University commits to taking reasonable steps to ensure the safety of the University Community when an allegation of Sexual/Gender-based Violence and Misconduct is disclosed to the University;
- 3.8. The University commits to ensuring transparency, by having this policy be accessible to all those who may need it.
- 3.9. All Members of the University Community will be treated equitably under this Policy. All matters arising under this Policy will be dealt with in a fair, unbiased and timely manner.

#### **4. Confidentiality**

- 4.1. All disclosures of sexual violence will be treated in a confidential manner, within the limitations described in this section.
- 4.2. All parties to whom a disclosure is made or by whom the report of disclosure is received must keep the matter confidential. The University will limit sharing of information to those within the University on a need to know basis for the purposes of implementing this Policy, receiving assistance, providing accommodation or interim measures, investigative option (if taken) and any corrective actions resulting from these policies. This is to protect the rights of those involved in allegations; to prevent unjustified invasions of privacy, and to preserve the integrity of any investigation.
- 4.3. There are instances when confidentiality cannot be maintained due to the obligation to protect the health and safety of all members of the University Community or where the university is obliged by law to disclose the information, such as:
  - An individual is at risk of imminent harm to themselves and/or to others;
  - A member of the University Community may be at risk of harms;
  - Reporting an investigation that is required by law, which includes (but not limited to):
    - an incident involving a minor,
    - obligations related to occupational health and safety,
    - human rights legislation and/or community safety



- 4.4. When a complaint is made and the on-campus investigative option is used, the Accused will have the right to receive information about the nature and source of the complaint, as well as to respond to the complaint. Therefore, while confidentiality is embedded in the process of disclosures, the investigative stream option (Section 9.2 of this policy) is not anonymous. There are other anonymous options detailed in Section 9 of this policy.

## 5. General Provisions Regarding the Disclosures

- 5.1. This policy and the investigative option process do not prevent an individual from also reporting sexual violence to the governing policing body (in most instances, the Halifax Regional Police or the Royal Canadian Mounted Police). This policy and the investigative option process are not intended to discourage a Victim/Survivor and/or Complainant from pursuing the matter of sexualized violence through the criminal justice system and/or from pursuing a complaint of sexual harassment with the Nova Scotia Human Rights Commission.
- 5.2. Anyone who has experienced or witnessed sexual violence has several options for disclosure both on and off campus. These options can be undertaken simultaneously as mentioned in Section 7.1:
- **Criminal Reporting Option:** Individuals may report a sexual violence experience through the criminal justice system by contacting the governing policing body (in most instances, the Halifax Regional Police or the Royal Canadian Mounted Police). The Police may offer the services of specialized units (such as the Victim Services unit) who can help facilitate emotional supports, information on the criminal justice process, and other advocacy resources. If any individual chooses this route, the Director of Human Resources and/or Vice-President (Academic & Research) can assist in facilitating the making of a report to the police.
  - **On-Campus, Non-Investigative Disclosure Option:** The University understands and respects that it is not every Victim's/Survivors' and/or Complainant's wish to move forward with an investigative report. Therefore, a Victim/Survivor and/or Complainant may disclose sexual victimization to the Director of Human Resources (employees) and/or Vice-President Academic and Research (students and visitors) for the purpose of accessing supports, resources, and accommodations that are available to the Victim/Survivor and/or Complainant as outlined in the policy. To the greatest extent possible, the University will respect the Victim/Survivor's and/or Complainant's choice not to proceed with an investigative process option.
  - **Anonymous Option:** Any member of the University community may report witnessing or having reasonable concerns about an act of sexualized violence in the form of a written anonymous report to the Vice-President (Academic & Research). Anonymous Information may be limited and as such, the Vice-President (Academic & Research) has the right, in their sole discretion, to proceed in the absence of an identified "Victim/Survivor" and/or Complainant based on the circumstances and evidence available. It is recognized that in this instance, it may not be possible to proceed with an investigative stream.
  - **Non-Criminal, On-Campus, Investigative Process Option:** This is the process by which a Victim/Survivor and/or Complainant forms a complaint or disclosure and wishes for it to be investigated by the University (for the process, see Section 8 and Section 9) under university sanctions.
  - **Disclosure Off-Campus, Non-Reporting Option:** If a student has experienced sexualized violence and do not wish to report it through the criminal justice system or to disclose through an on-campus option. There are outside resources available, outlined in Section 12.0 of this policy, that are able to assist with navigating the aftermath of sexualized violence and providing support for the Victims/Survivors and/or Complainants.

- **Disclosure via Social Media:** posting about an experience of sexualized violence via social media will not, for the purposes of an investigation, be considered a report.
- 5.3. Complaints of harassment and discrimination that are not of a sexual nature can be addressed using the Respectful Workplace and Learning Environment Policy.
  - 5.4. **Translator:** When necessary, it will be possible to hire a translator for all disclosure options.
  - 5.5. **Support Persons:** One support person may accompany the Victim/Survivor, Complainant and/or the Accused throughout any point of disclosure and/or investigation. The support person cannot be a witness in the investigative process but may act as moral or emotional support; however, they may not speak on behalf of the Victim/Survivor, Complainant and/or the Accused. A support person must agree to a written confidentiality agreement in accordance with this Policy, and all representatives (both written and oral) must come directly from the Victim/Survivor and/or Complainant themselves. Under some conditions, a waiver may be provided to allow support person to speak on behalf of the victim/survivor.
  - 5.6. For emergency matters, all Victims/Survivors and/or Complainants should call 911.
  - 5.7. This policy also does not impact an employee's ability to pursue a grievance under their collective agreement.

## 6. General Provisions for the Investigation Process:

- 6.1. **Communication:** Confidentiality of information disclosed at any time during process will be maintained to the best extent possible, consistent with Section 8 of this policy. The SVRT is responsible for the transferral of information. Information that is disclosed for the sake of the investigation process will only be shared amongst those who need it in order to conduct a proper investigation and to address the needs of the Victim/Survivor and/or Complainant and the Accused. Persons with whom information is shared are directly involved in the conversation and/or those who have professional responsibilities related to the disclosure. The Victim/Survivor and/or Complainant will be advised on where their information is shared.
  - 6.1.1. There will be no public statements (i.e., media, public/social media statements) from the University until the investigation process has been completed. This is to ensure the procedural fairness to both the Victim/Survivor and/or Complainant and to the Accused, and to ensure there is no information shared that may alter the integrity of the investigation process.
  - 6.1.2. All parties involved are encouraged to maintain the confidentiality of the investigation, but this does not limit a person from seeking counselling treatment or other support services, or from speaking with friends and family.
  - 6.1.3. All documents and information related to the investigations will be securely held by the Office of Human Resources.
- 6.2. **Timelines:** NSCAD University recognizes that both Victim/Survivor and/or Complainant and Accused will want the process to move as quickly as possible. Therefore, the University pledges to deal with matters as quickly as possible and will aim for the processes to be completed within ninety (90) business days. There may be, with compelling circumstances, reasonable causes that prolong the timeline of the investigation process. In these circumstances, extensions may be undertaken to the Victim/Survivor and/or Complainant and Accused. These extensions are granted by the SVRT if deemed appropriate.
  - 6.2.1. The University may, upon receiving a written request from the Victim/Survivor and/or Complainant and Accused, suspend the normal timelines for completion of the process pending third party proceedings to avoid any potential procedural unfairness, conflicting and prejudicial outcomes for either parties.
- 6.3. **Interim Measures:** Interim Measures or accommodations can be implemented during the Investigative Process and pending a final decision. The Sexualized Violence Response Team (SVRT) or designate are responsible for recommending interim measures and accommodations to the appropriate manager:



Director of Human Resources, Associate Vice-President Student Experience, or Vice-President Academic & Research. Some examples may be, although certainly not limited to, changing class schedules to allow the Victims/Survivors and/or Complainants and Accused to be separated, staff work leave, rearrangement or reassignment, and extensions of assignments. Accommodations will be made at the request of the victim/survivor and/or complainant, or when deemed necessary for safety, and accommodation requests will be filed to the best of the SVRT's ability.

- 6.3.1. Both the Director of Human Resources and Vice-President (Academic & Research) will be responsible for ensuring that Victims/Survivors and/or Complainants are given information regarding internal and external support and advocacy services as well criminal and on-campus University disclosure options. Additionally, they are responsible for ensuring all accommodations (both academic and employment) and interim measures are made available and implemented as needed.
- 6.3.2. At any stage in this policy, it may be necessary to take interim measures in order to safeguard the environment for Victims/Survivors, Complainants and/or Accused Persons. Some of these measures may include: rearrangement of academic/employment responsibilities, adjustment in schedules, or implementation of a "No Contact" order. However, these interim measures and accommodations are not construed as evidence of either guilt or affirmation of innocence.
- 6.4. **Retaliation:** The University will not tolerate any retaliation or the threat of retaliation against any person on account of a disclosure, report, or an expressed intention to submit a report under this Policy or on account of evidence or assistance given with respect to a Disclosure or Report under this Policy.

## 7. Investigation

### 7.1. Requirements:

- 7.1.1. The Investigative Process Option is an option only if the Victim/Survivor and or Complainant and the Accused is a member of the University Community.
- 7.1.2. A complaint must set out in writing the name of the Accused, the nature and details of the circumstances, including detailed facts, specific dates, and names of potential witnesses. Supports may be necessary to assist the Victim/Survivor in their written complaint. This can be done in the form of an audio recording complaint, wherein it will be transcribed into a written complaint.
- 7.1.3. As mentioned in Section 10, disclosures by employees wishing to move forward into the investigative process option may be reported to the Director of Human Resources. Disclosures by students or visitors wishing to move forward into the investigative process may be reported to the Vice-President (Academic & Research). Although a victim/survivor and/or complainant may report to anyone, if the investigative option is pursued, the Director of Human Resources and the Vice-President (Academic & Research) will be notified, and the disclosure information will be forwarded to these two positions as they sit on the Sexualized Violence Response Team (SVRT).
- 7.1.4. The Director of Human Resources and Vice-President (Academic & Research) will determine if the complaint/disclosure falls within scope of the Sexualized Violence Policy.
- 7.1.5. If the SVRT determines that there are appropriate grounds for pursuing the Investigation Process based on the definitions of Sexualized Violence outlined in this policy, they will inform both the Victim/Survivor and/or Complainant and the Accused in writing.
- 7.2. **Sexualized Violence Response Team Initial Review:** If the SVRT determines that the complaint does not fall within the definitions outlined in this policy, they will convey their decisions and reasons in writing to both the Victim/Survivor and/or Complainant and the Accused. Furthermore, they will direct them to

Section 9.3 of this policy for information of reviewing the decision. If applicable, the SVRT may determine that a complaint is better suited to be handled under a different policy, and thus, they will refer it to the governing body of such policy.

- 7.3. **Reviewing the Decision of the Sexualized Violence Response Team:** A request to review the Sexualized Violence Response Team's (SVRT) decision can only be made if it is determined that the complaint does not fall within the definition of Sexualized Violence outlined in this policy. If the Victim/Survivor and/or Complainant does not agree with this decision and believes their complaint falls within the definition of Sexualized Violence as outlined in this policy, they may submit a request for review to the University President. The University President will normally review the request within 10 business days and will make the final decision of whether the complaint falls within the definition of Sexualized Violence as outlined in this policy.

7.4. **The Investigation Process:**

- 7.4.1. **Step 1 – Investigator Assignment:** Once it is determined that the complaint falls within the definitions of this policy, the investigation process will begin. The Sexualized Violence Response Team (SVRT) will either be responsible for all aspects of the investigation process, or when applicable, they may hire or appoint an Investigator with the experience of handling workplace sexualized violence policies and investigations.
- 7.4.2. In instances where the President, a member of the SVRT, or a member of the University Board of Governors is the Accused, an external Investigator will be appointed.
- 7.4.3. **Step 2 – Written Notice of Complaint:** The Director of Human Resources and/or the Vice-President (Academic & Research) will provide written notice to the Accused and the Victim/Survivor and/or Complainant to notify them about the investigation process and complaint. If an investigator is hired, both the Accused and the Victim/Survivor and/or Complainant will be given the contact information of the investigator.
- 7.4.4. The Victim/Survivor and/or Complainant will not be required to participate in the investigation but may participate as they are comfortable/able.
- 7.4.5. The Accused will be given an opportunity to respond, in writing, to the complaint within what would not normally exceed ten (10) business days.
- 7.4.6. Both the Accused and the Victim/Survivor and/or Complainant will receive a copy of the Accused's response.
- 7.4.7. If no response is given by the Accused within the time requested, the Accused will be notified that the allegations remain unchanged and that the investigation will proceed without response.
- 7.4.8. The Victim/Survivor and/or Complainant will have an opportunity to respond with a written reply to the Accused's response within what will not normally exceed ten (10) business days. If there is no response within the time requested, the investigation will proceed without response.
- 7.4.9. Both the Victim/Survivor and/or Complainant and the Accused will receive a copy of the Victim/Survivor's and/or Complainant's response.
- 7.4.10. The SVRT and/or Investigator will examine all information collected by the parties as well as all other information given. In these instances, the information collected would be refers to any statements, complaints, information and correspondence surrounding the disclosure in question. Interviews will be conducted as needed in a fair and impartial manner. A fair and impartial interview means that an interviewer will not prematurely come to conclusions, make accusations, shame the victim/survivor, and/or display outward bias toward either parties. The investigator will remind both the Victim/Survivor and/or Complainant and the Accused of the

requirement to keep all private and personal information of parties involved confidential in accordance with this policy.

- 7.4.11. **Step 3 – Completing Report:** Once the investigation is complete, the SVRT and/or Investigator will send a written confidential report containing all information of the investigation to the Victim/Survivor and/or Complainant and the Accused. The report will include a reminder of the importance of keeping all information private and confidential to protect all parties until the investigation is complete.
- 7.4.12. **Step 4 – Setting Meeting Dates:** After all information and reports have been delivered to the Victim/Survivor and/or Complainant and the Accused, the SVRT will set a meeting date, time and place. More than one meeting may be set. The SVRT will then supply the Victim/Survivor and/or Complainant and the Accused of these meeting details in the form of a written notice. In this written notice, the Victim/Survivor and/or Complainant and the Accused will be advised that if they choose not to attend or participate, the SVRT will move forward in their absence.
- 7.4.13. **Step 5 – Hosting the Meeting(s):** The Victim/Survivor and/or Complainant and Accused will be afforded the opportunity to make written and oral statements to the SVRT. The Victim/Survivor and/or Complainant and the Accused are expected to speak on their own behalf. Members of the SVRT may ask questions to the Victim/Survivor and/or Complainant and the Accused and may call witnesses as they deem necessary. The Victim/Survivor and/or Complainant will only participate in aspects of the meeting as they are comfortable/able.
- 7.4.14. **Step 6 - Decision of the SVRT:** Upon the completion of the final investigation process report, and any oral representations from the Victim/Survivor and/or Complainant, Accused and Witnesses. The SVRT will:
- 7.4.14.1. Decide whether the investigation was conducted appropriately and fairly; if the investigation was completed by a third party investigator
  - 7.4.14.2. Decide whether on the balance of probability (i.e., more likely than not) the Respondent has committed an act of sexual violence;
  - 7.4.14.3. Recommend actions and measures to the appropriate governing body, either Human Resources or Student Experience that the SVRT considers appropriate to address, or at least mitigate, any academic and employment harm or other emotional consequence that may come from the nature of the complaint. As well, actions or measures that will prevent the reoccurrence of Sexualized Violence in the University Community. These measures and actions depend on the circumstances, severity of the conduct, applicable collective agreements, and/or other university policies. The following list is some examples of measures, but it is no means an exhaustive list:
    - A letter of apology;
    - Trainings sessions on consent, trauma, and impact of sexual violence;
    - Restricted access to NSCAD campus and/or services
    - For employees: recommendation of discipline up to and including termination of employment
    - For students: discipline up to and including suspension and expulsion
    - A public letter to the NSCAD community

- 7.4.15. **Step 7** – The appropriate governing body, either Human Resources, Student Experience or Academic Affairs and Research, will review the recommendations of the SVRT and apply an appropriate discipline, action and/or measure.
- 7.4.16. **Step 8 – Delivery of Decision:** The decision of the SVRT, all recommended actions and measures as decided by the appropriate governing body, and the support of reasoning will be given to the Victim/Survivor and/or Complainant and the Accused in the form of a confidential written notice. However, if the Victim/Survivor and/or Complainant or the Accused would prefer to have the decision done in person, then the SVRT will arrange a meeting to deliver the decision orally. Additionally, the SVRT will address the needs of the Victim/Survivor and/or complainant as outlined in this policy. The SVRT is responsible for offering the supports, accommodations, and resources available to the Victim/Survivor and/or Complainant.

## 8. The Appeal Process

- 8.1. **Appeal:** An appeal is not considered to be a repeat of the Investigation Process. It will only occur for the following reasons:
  - 8.1.1. The appeal must demonstrate that there has been a procedural error in the decision and that error has caused or will cause prejudice to the person seeking the appeal and/or that there is new and significant information available that is relevant to the final decision made by the SVRT, that the SVRT has not been made aware of at the time of the final decision.
  - 8.1.2. The appeal is made by either the Victim/Survivor and/or Complainant or the Accused
  - 8.1.3. The appeal must be made within 30 days of the final decision by the SVRT.
- 8.2. A request for an appeal will be made to the **University President** and copied to the Director of Human Resources.
  - 8.2.1. Once the appeal request has been received, an **Appeal Board** will be convened by the University President. The Appeal Board will set a meeting date in a timely fashion to review the request.
- 8.3. The appeal board will consist of the University President and two other members of the University Community as appointed by the President.
  - 8.3.1. The President will review the appeal and determine which parties are most relevant to participate as members of the appeal board. This may include recommending a third-party external investigator/partner to review the appeal.
  - 8.3.2. In instances where the President or a member of the University Board of Governors is named, an external Investigator will be appointed.
  - 8.3.3. All members of the appeal board will be trained in sexual violence and procedural fairness protocols.
- 8.4. The Appeal Board reviews the appeal in order to determine whether it fits in accordance to Section 10.1 of this Policy. All decisions of the Appeal Board are final.

## 9. Education

- 9.1. The University is committed to providing on-going educational initiatives surrounding topics of sexualized violence to assist in embedding this knowledge into the framework of the University. These measures are not solely student and student union led but will be organized by the University. Prevention is one of the University's fundamental goals, and this goal will be undertaken by educational and awareness initiatives. These initiatives are not limited to discussing issues of consent, rape culture, creating a culture of consent, drug and alcohol use, sexual harassment, and sexual assault. These initiatives will be broadly communicated

across all aspects of the University Community. The Human Resources Department will provide training to all employees on this policy and the office of Student Experience will provide information and support on this policy to students. This education process will extend beyond the use of informational pamphlets, but rather to train students, staff, student-leaders, on how to appropriately respond to disclosures of sexualized violence, how to respond as a bystander and the effects of sexualized violence on daily functioning. The University recognizes that education happens broadly and can be transferred from peer to peer. Furthermore, information about services available on and off campus to support those affected by sexualized violence will be well-communicated.

## 10. Accountabilities

- 10.1. “Victims/Survivors” and/or Complainants may disclose, or report sexualized violence to whomever they feel most comfortable, and are not required to immediately disclose to the Director of Human Resources and/or the Vice-President Academic and Research. The receiver of the sexualized violence disclosure may seek all additional supports from any of the resources outlined in this policy.
- 10.2. Bystanders, or witnesses, to sexualized violence may wish to report to the Director of Human Resources and/or the Vice-President (Academic & Research) as a complainant. However, they are not limited to this course of action. Under Section 7 of this policy, there are various disclosure options and supports available that apply to witnesses and bystanders as well.
- 10.3. Human Resources in collaboration with the Office of Student Experience is the area that is responsible for leading campus initiatives related to sexualized violence, including educational, supportive and investigative roles.
  - 10.3.1. The Director of Human Resources will normally act as the first point of contact for all disclosures of sexual violence made by the University employees (including contractors and temporary and transient staff). The Director of Human Resources is responsible for engaging relevant university policies and procedures in response to disclosures of sexual violence.
  - 10.3.2. The Vice-President (Academic & Research) will normally act as the first point of contact for all disclosures of sexual violence made by students and visitors of the University Community. The Vice-President (Academic & Research) is responsible for engaging relevant University policies and procedures in response to disclosures of sexual violence.

## 11. Training of Staff and Composition of Sexualized Violence Response Team (SVRT)

The Director of Human Resources, Vice-President (Academic and Research), Associate Vice-President Student Experience and Registrar, as well as other designated staff will be trained adequately to support sexual violence Victims/Survivors and/or Complainants. This includes, but is not limited to, training to adequately support racialized and/or minority groups. When it is not possible, or when the Victim/Survivor requires additional support, the Director of Human Resources and Vice-President (Academic & Research) will make every reasonable effort to provide the Victim/Survivor with the support that they need. The Director of Human Resources and the Vice-President (Academic & Research) are responsible for making education and training accessible to the needed staff members, however, they must also be accessible to all staff with questions about handling disclosures.

- 11.1. If a Victims/Survivors and/or Complainants choose the Investigative Stream **(see Section 7.4 of this Policy)** method of disclosure, **a Sexualized Violence Response Team (SVRT)** will be made to handle the investigation and any corresponding recommendation of action.

11.1.1. The SVRT includes:

- Director of Human Resources
- Vice-President (Academic & Research)

- A student-appointed representative from the Student Experience office (when a student is involved).
  - An employer-appointed representative (when no students are involved)
- 11.1.2. In instances where it is deemed by the receiver of the complaint (either the Director of Human Resources or Vice-President (Academic & Research)) that the SVRT is not the appropriate body to review the complaint, a third-party investigator may be hired to handle the investigation. This person will have demonstrated experience investigating sexualized violence, and who has a firm understanding of sexualized violence protocols, procedures and legality. An investigator will not be hired in every circumstance and thus, it is not meant to dissuade Complainants and/or Victims/Survivors from disclosing. If the SVRT chooses to hire an Investigator, the Complainants and/or Victims/Survivor will be consulted.

## 12. Record Keeping and Amendments

- 12.1. At the end of each fiscal year, the Director of Human Resources and the Vice-President (Academic & Research) will compile an annual report which is to include: a. the number of disclosures (keeping all personal information confidential), the type of disclosure and/or reporting options (i.e., non-investigative or investigative), and the outcomes of the investigative stream (Dismissal of complaint or finding of misconduct), and a list of the consequences applied.
- 12.2. All records related to disclosures, complaints, and matters related to this policy will be securely and confidentially stored under the control of the Director of Human Resources.
- 12.3. This policy will be reviewed annually or sooner as deemed necessary, to ensure that it is up-to-date and remaining relevant. Policy changes must include the input of students, and employees.

## Forms and Tools

### APPENDIX A RESOURCES

#### Resources Available to Students, On-Campus and Off-Campus:

- **NSCAD Mental Health Counsellor:** 902-494-8260
  - Available 5 days a week from 12pm-4pm. Call to make an appointment at 902-494-8260. Students can refer themselves to outside psychologists for counseling directly. NSCAD's Student Health Insurance providers cover \$1000 per year in psychological services.
- **Dalhousie University Sexual Violence Protocols:** <https://www.dal.ca/dept/hres/sexual-violence.html>
- **Saint Mary's University Sexual Assault Policy and Procedures:** <https://smu.ca/webfiles/6-2003SexualAssault.pdf>
- **Kings' College Sexual Violence Policy:** <http://ksu.ca/svp/>
- **Atlantic School of Theology Student Handbook:** <http://www.astheology.ns.ca/webfiles/AST-Student-Handbook-2013-14.pdf>

#### Resources Available to Employees:

- **Employee and Family Assistance Program (EFAP):** 1 (800) 387-4765, <http://workhealthlife.com>



### **Resources Available to All members of the University Community:**

- **Sexual Assault Nurse Examiners Program (S.A.N.E):** 902-425-0122 or email [avalonsane@eastlink.com](mailto:avalonsane@eastlink.com)
  - Avalon Centre provides the Avalon SANE Response Line. After an immediate sexual assault (one that occurred within the past 120 hours/5 days) callers can reach an on call Sexual Assault Nurse Examiner by calling the Response Line. It is a service for all ages and genders, which is confidential and non-judgmental support while giving information on options and supports. It also has medical care and collection of forensic evidence at the hospital up to 120 hours/5 days after a sexual assault has occurred.
  - **Avalon Sexual Assault Centre:** 902-422-4240, [www.avaloncentre.ca](http://www.avaloncentre.ca)
    - Avalon Sexual Assault Centre provides the following to women and trans\* people: Individual counselling, support and therapy groups, court support, advocacy/support/referrals, confidential, non-judgmental, and free of charge services.
- **Halifax Regional Police (Non-Emergency):** 902-490-5020
- **Mental Health and Mobile Crisis Intervention Service:** 902-429-8167
  - Mobile Response from 1 pm to 1 am to most communities in Halifax Regional Municipality. MHMCT is a co-response model with police. It provides crisis intervention for children, youth and adults experiencing a mental health crisis or mental distress.

### **Nova Scotia Legal Advice for Sexual Assault Survivors Program:**

[https://novascotia.ca/sexualassaultlegaladvice/?gclid=EAfaIQobChMI2biW1cbu2AIVyeDICh2aaw-QEAAAYASAAEgKXVPD\\_BwE](https://novascotia.ca/sexualassaultlegaladvice/?gclid=EAfaIQobChMI2biW1cbu2AIVyeDICh2aaw-QEAAAYASAAEgKXVPD_BwE)

- **Metro Help Line:** 902-421-1188
- **Halifax Victim Services:** 902-490-5300, Monday to Friday between 8:30 a.m. and 4:30 p.m. If you're unable to call due to hearing impairment, it is possible to text (902) 497-4709. Emotional support, help with police information if charges have been laid and give referrals to programs in Halifax Regional Municipality for victims of crime
- **Nova Scotia Public Prosecution:** 902-424-8785
- **Nova Scotia Victim Services:** 902-424-8785
- **Nova Scotia Rainbow Action Project:** 902-444-7887
- **Adsum House (for women and children):** 902-423-4443
- **Bryony House (for women and children):** 902-422-7650
- **Metro Turning Point (centre for homeless men):** 902-420-3282
- **Newfoundland and Labrador Sexual Assault Crisis and Prevention Centre 24/7 Crisis Helpline:** by both male and female volunteers who are trained in crisis intervention. Anyone can call our line, any day, any time, call toll free at 1 (800) 726-2743
- **ONTX Ontario Online + Text Crisis Services:** Text “Connect” to 741-741 from your cell phone. It is available 2pm-2am
- **South House Sexual and Gender Resource Centre:** 1-902-494-2432

**Sexualized Violence Policy:** <https://navigator.nscad.ca/wordpress/wp-content/uploads/2018/12/5.8-Sexualized-Violence-Policy.pdf>