



**Laurentian University**  
**Université Laurentienne**

LAURENTIAN UNIVERSITY OF SUDBURY

Policy on Response and Prevention of Sexual Violence

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| Office of Administration | President and Vice-Chancellor |
| Approval Authority       | Board of Governors            |
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## 1. PURPOSE

1.1. The overarching purposes of this Policy are to reaffirm Laurentian University's commitment to a safe and healthy campus for work, for study and for campus community life for student members of the University community and its commitment to provide support to those student members of the University community directly affected by sexual violence.

1.2. This Policy is also intended to

1.2.1. Set out the University's statement of values and commitments to address sexual violence involving students;

1.2.2. Provide information about supports and services available at the University and in the community and to ensure follow-up once a report is made to the University;

1.2.3. Provide information about the University's process for responding to and addressing incidents and complaints of sexual violence involving students; and

1.2.4. Meet the University's obligations under Bill 132, An Act to amend various statutes with respect to sexual violence, sexual harassment, domestic violence and related matters, the *Ministry of Training, Colleges and Universities Act* and the *Ontario Human Rights Code* with respect to sexual violence and sexual harassment.

## 2. SCOPE

2.1. This Policy addresses sexual violence involving student members of the University community, whether they are in the University's learning or work environment, on or off campus, or interacting through social or other electronic media. The learning and working environment encompasses any setting where University learning, working or other activities take place, whether in the classroom, lab, in other teaching, research, study or office settings, in a University student residence or in connection with clubs or sport teams.

## 3. COMPANION POLICIES

3.1. This policy is part of a tetralogy of Laurentian Policies that support learning and working places free from discrimination, harassment, sexual harassment, bullying, violence and sexual violence. Including:

3.1.1. Laurentian University Student Code of Conduct, Non-Academic;

3.1.2. Laurentian University Policy on a Respectful Workplace and Learning Environment; and

3.1.3. Laurentian University Policy on Workplace Violence Prevention.

3.2. This Policy does not replace or supersede existing collective agreement provisions relevant to addressing sexual violence.

#### 4. INTERPRETATION

- 4.1. This Policy must be read and interpreted within the context of the overarching purposes referred to in section 1.
- 4.2. The following definitions are intended to assist in the interpretation of this Policy as well as other related University policies mentioned in paragraph 3.1.

#### 5. DEFINITIONS

- 5.1. "Consent" refers to an active, direct, voluntary, and conscious choice and agreement to engage in any sexual activity by a person capable of consenting. These elements of consent must be present. It is not acceptable for a person who is said to have engaged in sexual violence to use their own consumption of alcohol or drugs as an excuse for their mistaken belief that there was consent. For further clarity, consent:
  - 5.1.1. Can be revoked at any time;
  - 5.1.2. Cannot be assumed nor implied;
  - 5.1.3. Cannot be given by silence or the absence of "no";
  - 5.1.4. Cannot be given by an individual who is incapable of consenting due to intoxication by alcohol or drugs;
  - 5.1.5. Cannot be given by an individual who is unconscious or asleep;
  - 5.1.6. Cannot be obtained through threats or coercion;
  - 5.1.7. Cannot be given if the person who is said to have engaged in sexual violence has abused a position of trust, power or authority; and
  - 5.1.8. Might not be given properly if an individual has a disability that limits his, her or their verbal or physical means of interaction – in such instances, it is extremely important to determine how consent will be established.
- 5.2. "Disclosure" refers to when someone discloses to a campus official that they have experienced sexual violence. A disclosure does not constitute a report/complaint.
- 5.3. "First responder" refers to the person to whom the affected member of the University community initially disclosed. This could be a friend, staff member of faculty member. They may be significantly affected by the disclosure of sexual violence and may also be in need of support.

- 5.4. "Rape culture" refers to 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.
- 5.5. "Report/Complaint" refers to a formal report or complaint of an incident of sexual violence under this Policy for the purposes of initiating some form of investigation or adjudication.
- 5.6. "Respondent" refers to a student or a group of students against whom a complaint has been made under this Policy.
- 5.7. "Sexual assault" refers to any type of sexual contact without mutual consent. This may range from kissing and fondling to intercourse or other sexual acts. Any physical contact of a sexual nature without consent is sexual assault.
- 5.8. "Sexual Harassment" means :
- 5.8.1. Engaging in a course of vexatious comment or conduct against a person in a workplace, learning environment and/or housing accommodation because of sex, sexual orientation, gender identity or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome, (*in some cases, one incident could be serious enough to be sexual harassment*) or
  - 5.8.2. Making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement and the person knows or ought reasonably to know that the solicitation or advance is unwelcome;
  - 5.8.3. An implied or expressed promise of reward for complying with a sexually oriented request;
  - 5.8.4. An implied or expressed threat of reprisal or actual reprisal for refusing to comply with a sexually oriented request;
  - 5.8.5. A sexually oriented comment or behaviour that may reasonably be perceived to create a negative psychological and emotional environment for a workplace, learning environment or housing accommodation;
  - 5.8.6. Indecent exposure, voyeurism, degrading sexual imagery, degrading comments (in person or online) and cyber harassment.
- 5.9. "Sexual violence" refers to any sexual act or act targeting a person's sexuality, gender identity or gender expression, whether the act is physical or psychological in nature, that is committed, threatened or attempted against a person without the person's consent and includes sexual assault, sexual harassment, stalking, indecent exposure, voyeurism, sexual exploitation, distribution of sexual images or video of a community member without their consent, and cyber stalking of a sexual nature.
- 5.10. "Sexual Violence Response Team" refers to a panel that considers the desires/needs of the affected members of the University community and the safety of the campus. The Team is comprised of:
- 5.10.1. The Director of Campus Security or designate,

- 5.10.2. The Assistant Vice-President, Equity, Diversity and Human Rights or designate,
  - 5.10.3. If the sexual violence involves a student, either as the claimant or respondent, the Director of Student Life or designate,
  - 5.10.4. If the sexual violence involves a non-academic employee, either as the claimant or respondent, the Executive Director of Human Resources or designate,
  - 5.10.5. If the sexual violence involves an academic employee either as the claimant or respondent, the Dean of the Faculty in which the academic employee reports, and
  - 5.10.6. If the sexual violence occurs in a Laurentian residence complex, the Director of Housing Services or designate.
- 5.11. "Survivor" refers to an individual who has experienced sexual violence.
- 5.12. "University community" refers to all individuals who have a relationship with or to the University, including but not limited to:
- 5.12.1. Students, meaning individuals registered as students at the University, whether full-time or part-time, at the undergraduate or graduate level;
  - 5.12.2. Employees, including all unionized and non-unionized academic, and non-academic staff as well as those whose salary is paid through sources other than the University's operating funds, such as grants, research grants and external contracts;
  - 5.12.3. Adjunct, visiting and emeritus professors; post-doctoral or clinical fellows; research trainees; and medical residents;
  - 5.12.4. contractors, consultants, suppliers or other entities engaged by the University to provide services or goods when on University property or while acting in a capacity defined by their relationship to the University;
  - 5.12.5. Members of the Board of Governors, of the Senate and any of their respective committees, as well as members of any advisory committee formed to help the University achieve its goals;
  - 5.12.6. Employees of employee and student groups when on University property or while acting in a capacity defined by their relationship to the University;
  - 5.12.7. Visitors, including visiting students and volunteers or persons who serve on advisory or other committees.

## 6. STATEMENT OF VALUES AND COMMITMENTS

- 6.1. The University is committed to creating and maintaining an environment where student members of the University community can study and work free from sexual violence.

- 6.2. The University recognizes that sexual violence is a fundamental affront to an individual's rights, dignity and integrity.
- 6.3. The University seeks to prevent sexual violence, including by intervening and speaking out when the University sees it occurring.
- 6.4. The University ensures that student members of the University community who experience sexual violence are supported, treated with compassion and the University will appropriately accommodate their needs. Students who disclose and/or report an experience of sexual violence can expect to be:
  - 6.4.1. Treated with compassion, dignity, and respect;
  - 6.4.2. Provided with timely safety planning assistance;
  - 6.4.3. Informed about on- and off-campus support services and resources available to them;
  - 6.4.4. Provided with non-judgmental and sympathetic support;
  - 6.4.5. Provided with academic, recreational and housing accommodations as appropriate to prevent further unwanted contact with the alleged perpetrator if the alleged perpetrator is a member of the campus community;
  - 6.4.6. Allowed to determine whether and to whom they wish to disclose or report their experience, including:
    - 6.4.6.1. Whether or not to pursue formal criminal and/or university avenues of redress;
    - 6.4.6.2. Whether or not to disclose to a support person and seek out personal counselling.
- 6.5. The University addresses acts of sexual violence involving students in the University community fairly and promptly.
- 6.6. The University is committed to a survivor-centred approach to addressing issues of sexual violence and the development of English and French language services.
- 6.7. The University acknowledges and combats broader social attitudes about gender, sex and sexuality that normalize sexual violence and undermine women's equality. These are sometimes referred to as "rape culture".
- 6.8. The University will maintain annual statistics, without identifying information, on disclosed and reported incidents sexual violence on campus and in accordance with legislative requirements. External reporting of such statistics will be done in accordance with legislative requirements.
- 6.9. The University will provide or make available to members of the University community education and awareness training on this Policy and on the prevention of sexual violence, with content tailored to the audience and relevant to their role and responsibility in responding to and addressing sexual violence.

## 7. DISCLOSING AND/OR REPORTING SEXUAL VIOLENCE TO THE UNIVERSITY

### 7.1. General provisions about disclosure and reporting

- 7.1.1. A disclosure of sexual violence does not constitute a report/complaint of sexual violence. An affected member of the University community may disclose for the purposes of receiving support without filing a report/complaint.
- 7.1.2. Prior or subsequent to disclosing and/or reporting the matter to anyone at the University, the person is encouraged, and is always free, to consult with or seek the advice and support from the relevant student association, union or other employee group about the matter, including regarding confidentiality, support and services, and the complaint process.
- 7.1.3. If an incident of sexual violence is disclosed to a member of the University community, the person to whom it is disclosed should refer the person to this Policy, and inform the person that information about on and off campus supports is provided on a dedicated Laurentian University Sexual Harassment and Violence Education and Support website.

### 7.2. Confidentiality

- 7.2.1. Disclosures and reports of sexual violence to the University will be treated in a confidential manner and in accordance with the *Freedom of Information and Protection of Privacy Act* and in accordance with the provisions of applicable collective agreements.
- 7.2.2. All members of the University community who receive a disclosure and/or report of sexual violence or who are involved in addressing or investigating it must keep the matter confidential in order to safeguard individuals against unsubstantiated allegations, to protect the rights of those involved in the allegations and prevent an unjustified invasion of their personal privacy and to preserve the integrity of the investigation.
- 7.2.3. The University will make every reasonable effort to maintain confidentiality when it becomes aware of an incident of sexual violence and will limit disclosure of information about individuals to those within the University who need to know for the purposes of, or those consistent with, addressing the situation, investigating or taking corrective action. Under the following circumstances, however, the University might face additional legal obligations and may not be able to guarantee complete confidentiality if:
  - 7.2.3.1. An individual is at risk of self-harm;
  - 7.2.3.2. An individual is at risk of harming an identified individual;
  - 7.2.3.3. Members of the University community or the broader community may be at risk of harm; and/or
  - 7.2.3.4. Reporting or investigation is required by law.

7.2.4. If an affected member of the University community or other person requests that the University not act on a disclosure of sexual violence, the University must weigh that person's request against the University's legal obligation to take action and provide a learning and working environment that is safe and free from sexual violence for all members of the University community.

### 7.3. Report in an emergency

7.3.1. In an emergency on campus (imminent threat of sexual violence and of harm to a person or sexual violence is actually occurring), call 911. A report can also be made to Campus Security.

7.3.2. When a person reports an incident of sexual violence to Campus Security, Campus Services must inform the Equity, Diversity and Human Rights Office for follow-up as referred to in paragraph 7.5 of this Policy.

### 7.4. Report and/or disclosure in a non-emergency

7.4.1. The Equity, Diversity and Human Rights Office is responsible for handling all reports of sexual violence involving members of the University community in a non-emergency situation, whether the sexual violence has occurred on or off campus. The Equity, Diversity and Human Rights Office will provide information about available support and services, including information about interim measures that may be available to address the immediate situation and is the point of contact for a person affected by sexual violence to obtain academic, employment or other accommodations.

### 7.5. Follow-up on a report

7.5.1. When a person reports or discloses sexual violence to Campus Security or to the Equity, Diversity and Human Rights Office, the Equity, Diversity and Human Rights Office will contact the person to learn more about the circumstances, the person's needs and expectations, and the outcome sought. The Equity, Diversity and Human Rights Office will make every effort to assist the person and will discuss with the person potential options to address or resolve the matter in a timely and supportive way, the appropriateness of which will depend on the person's needs and on the circumstances. The following is a list of examples that is not meant to be exhaustive:

7.5.1.1. Referral to contacts for suitable supports, services or resources available at the University and in the city;

7.5.1.2. Providing information to the person on what the person can do or what the Equity, Diversity and Human Rights Office or other person may do to intervene in the situation;

7.5.1.3. Communication with the person who is said to have engaged in sexual violence to inform that person that the conduct is unwelcome;



- 7.5.1.4. Availability of interim academic or employment accommodation or other measures to stabilize a situation or to protect the person from retaliation or the threat of retaliation, to address safety or other concerns, and/or otherwise support the person (examples for students include exam or assignment deferral, class and/or schedule changes, housing changes; examples for student employees include making changes that are not disciplinary but precautionary to avoid contact between parties or placing the person who is said to have engaged in sexual violence on a temporary non-disciplinary leave with pay);
  - 7.5.1.5. Information about methods available to facilitate a resolution;
  - 7.5.1.6. Information about the filing of a formal complaint under this Policy; and
  - 7.5.1.7. Information about any other available options to address or resolve the matter.
- 7.5.2. The Equity, Diversity and Human Rights Office must, where appropriate, also engage the Sexual Violence Response Team to ensure the safety, follow-up and support for those involved in the report of sexual violence. The Sexual Violence Response Team must ensure that the following steps take place and that there is follow-up:
- 7.5.2.1. The person who has disclosed or reported an experience of sexual violence is given information regarding internal and external personal support and advocacy services, and internal (non-criminal) and external (criminal and other legal proceedings) complaint processes;
  - 7.5.2.2. Appropriate academic, employment or other accommodation and interim measures are made available and implemented to stabilize the situation and/or separate the parties and to address any safety or security concerns; and
  - 7.5.2.3. A threat assessment is conducted.
- 7.5.3. The Sexual Violence Response Team can, on a confidential basis, consult or seek the assistance of other internal authorities or resources for direction and can consult or seek the assistance of external parties relevant to the particular incident, such as the student federation, employee associations, rape crisis centres and counselling services.

## 7.6. Support and services

- 7.6.1. A person affected by sexual violence is not required to report an incident or make a complaint about sexual violence under the formal complaint process of this Policy in order to obtain the supports and services referred to below or in order to receive appropriate accommodation for his, her or their needs.
- 7.6.2. The supports and services available at the University to obtain information about sexual violence and/or support are as follows:
  - 7.6.2.1. From the University:

- 7.6.2.1.1. Equity, Diversity and Human Rights Office
- 7.6.2.1.2. Laurentian University Health Services
- 7.6.2.1.3. Campus Security
- 7.6.2.1.4. Counselling and Support Services (for students)
- 7.6.2.1.5. Housing Services (for students)
- 7.6.2.1.6. Accessibility Services (for students)
- 7.6.2.1.7. Indigenous Student Affairs (for students)

7.6.2.2. From the Student Associations:

- 7.6.2.2.1. Women's Resource Centre
- 7.6.2.2.2. Pride Centre

7.6.2.3. From other providers:

- 7.6.2.3.1. Sudbury Sexual Assault Centre
- 7.6.2.3.2. Greater Sudbury Police Services
- 7.6.2.3.3. Health Sciences North

## 8. GENERAL PROVISIONS ON THE FORMAL COMPLAINT PROCESS

- 8.1. External recourse: This Policy and the formal complaint process do not prevent and are not intended to discourage an individual from also reporting sexual violence to the police and pursuing a complaint of sexual violence through the criminal justice system or from pursuing a complaint of sexual harassment with the Ontario Human Rights Tribunal pursuant to the Ontario Human Rights Code.
- 8.2. Choice not to file a formal complaint or not to investigate: A person may choose not to file a formal complaint under Section 9 of this Policy. If a person decides not to file a formal complaint under Section 9 of this Policy or requests that the University not investigate, the full range of supports and services outlined in paragraph 7.6 of this Policy remain available to that person. To the greatest extent possible, the University will respect the person's choice not to proceed with a formal complaint under this Policy or a request that the University not investigate. However, the University may not be able to fulfill the person's wishes and the Sexual Violence Response Team can initiate an investigation if it has reason to believe that a member of the University community or broader community may be at risk of harm or if it determines that the University has a legal obligation to investigate. In such cases, the person has the right not to participate in such an investigation. If requested by the person and subject to any applicable collective agreement provisions and access to information and privacy legislation, she, he or they will be given an update on the status of such investigation and informed of its result, including the imposition of consequences or measures, if any. The Sexual Violence Response Team will appoint an investigator who will investigate the matter and provide the Sexual Violence Response Team with a written confidential report containing the facts and information gathered during the investigation, the investigator's analysis of the facts and information, the investigator's conclusion of whether or not sexual violence occurred and of the role of person who is said to have engaged in sexual violence. The Sexual Violence Response Team will consult with internal authorities on the investigation report and on the appropriate means for further addressing the matter.
- 8.3. Support person: The Complainant or the Respondent can be accompanied by a support person of their choice at any time during the formal complaint process outlined in this Policy. The support person can provide encouragement or other emotional or moral support. The support person, with the person's

authorization, can speak with the officer and obtain status updates on a complaint. As mentioned in paragraphs 9.6.2 (a) and 9.6.2 (b) of this Policy, the support person's role is not to act or speak on behalf of Complainant or Respondent; representations (both oral and written) must come directly from the Complainant and Respondent. The support person must agree in writing to maintain confidentiality in accordance with this Policy.

8.4. Deadlines and timelines: The deadlines mentioned in this Policy are meant to ensure that the matters are dealt with in a timely fashion. Deadlines may, however, be extended where there are grounds to do so. It can be difficult to determine appropriate timelines for the resolution, investigation or a final disposition with respect to a formal complaint. Therefore, where no deadlines are mentioned in this Policy, the intention is always to use a reasonable time period in light of the nature and complexity of the circumstances of the complaint.

## 9. FORMAL COMPLAINT PROCESS

### 9.1. Filing of a formal complaint

9.1.1. The Equity, Diversity and Human Rights Office is responsible for receiving and handling formal complaints of sexual violence. Only a person who reports experiencing sexual violence can choose to file a formal complaint under this Policy (the "Complainant").

9.1.2. A formal complaint can be filed with the Equity, Diversity and Human Rights Office if the individual who is said to have engaged in sexual violence is a member of the University community and was a member of the University community at the time of the incidents alleged in the formal complaint (the "Respondent").

9.1.3. If the Respondent's relationship with the University ends and he, she or they is no longer at or with the University, the formal complaint process in this Policy may be suspended. If the Respondent returns and once again becomes a member of the University community, a formal complaint process may resume. A Respondent's temporary leave of absence from the University or a temporary break in his, her or their relationship with the University do not prevent a resumption of a formal complaint process when such leave has ended or when the relationship between the University and the Respondent resumes.

9.1.4. A formal complaint must set out in writing the name of the Respondent, the nature and the details of the circumstances, including detailed facts, specific dates and names of potential witnesses. The Equity, Diversity and Human Rights Office will acknowledge receipt of any formal complaint received, review it and if necessary, seek clarification from the Complainant on the information it contains.

### 9.2. Equity, Diversity and Human Rights Office's assessment

9.2.1. The Equity, Diversity and Human Rights Office will assess the formal complaint and determine whether the conduct forming the basis of the complaint appears to fall within the definition of sexual violence as set out in Section 5 of this Policy.

- 9.2.2. If the Equity Diversity and Human Rights Office concludes that it appears that the Respondent is not a student member of the University, the complaint shall be dealt with under sections 10 to 32 of the University's Program on A Respectful Workplace and Learning Environment.
- 9.2.3. If the Equity, Diversity and Human Rights Office concludes that the respondent in a complaint is a student member of the University, and that the conduct in question appears to fall within the definition of sexual violence as set out in Section 5 of this Policy, the Equity, Diversity and Human Rights Office will appoint an investigator pursuant to paragraph 9.4 of this Policy and inform the Complainant in writing.
- 9.2.4. If the Equity, Diversity and Human Rights Office considers that the conduct complained of does not fall within the definition of sexual violence as set out in Section 5 of this Policy, or is frivolous, vexatious, or made in bad faith, the Equity, Diversity and Human Rights Office will convey this assessment in writing to the Complainant and inform the Complainant of his, her or their right to request a review under paragraph 9.3 of this Policy, and the Equity, Diversity and Human Rights Office will provide the applicable timelines and procedures for requesting this review.

### 9.3. Review of the Equity, Diversity and Human Rights Office's assessment

- 9.3.1. A request to review the Equity, Diversity and Human Rights Office's assessment of the complaint can be made only if the Equity, Diversity and Human Rights Office has determined that the complaint falls outside the definition of sexual violence as set out in Section 5 of this Policy.
- 9.3.2. If the Complainant disagrees with the Equity, Diversity and Human Rights Office's determination that the complaint is outside the definition of sexual violence as set out in Section 5 of this Policy, then the Complainant may ask the Sexual Violence Response Team (excluding the Director of Equity, Diversity and Human Rights) to review the Equity, Diversity and Human Rights Office's assessment, if the Complainant submits the request in writing within 10 business days after the date of the Equity, Diversity and Human Rights Office's determination. Upon review, the Sexual Violence Response Team's decision is final and will be communicated to the Complainant in writing.

### 9.4. Investigation

#### 9.4.1. Notification

- 9.4.1.1. Once the Equity, Diversity and Human Rights Office has accepted the complaint for investigation based on the criteria noted above, it shall notify the Respondent in writing that a complaint has been lodged. The Respondent will be provided with a copy or summary of the allegations, identifying the Complainant. The Respondent will also be provided with a copy of the policy.

#### 9.4.2. Response

- 9.4.2.1. The Respondent shall have the right (but is not obliged) to respond in writing, within ten (10) working days of being notified. The response, if any, should either

acknowledge or deny the validity of the allegations in whole or in part, provide additional information, and/ or propose a resolution of the complaint. A request for an extension of the response period will not be unreasonably withheld.

- 9.4.2.2. The Respondent is entitled to the same level of assistance in the process as is available to the Complainant. If he, she or they has not already done so, the Respondent has the right to meet with the Equity, Diversity and Human Rights Office to obtain information, guidance and assistance and discuss options. The Equity, Diversity and Human Rights Office will not directly assist the Respondent to prepare his, her or their response; a Respondent may seek such assistance anyone else he, she or they deems appropriate, including legal counsel.
- 9.4.2.3. The Complainant shall be provided with a copy or summary of the response and has the right (but is not obliged) to reply to the investigator, in writing, within five (5) working days. The Complainant may, in his, her or their reply, accept the Respondent's proposed resolution, if there is one; propose or request an alternate resolution, withdraw some or all of the allegations, or reply to the Respondent's version of events.
- 9.4.2.4. The Respondent will be provided with a summary of the Complainant's reply, which ends this stage of the process.

#### 9.4.3. Investigation

- 9.4.3.1. Once the complaint is accepted for investigation, the Equity, Diversity and Human Rights Office will appoint an investigator, who is impartial and unbiased and who is trained in sexual violence investigation techniques, to conduct a fair, thorough and complete investigation of the complaint.
- 9.4.3.2. The Complainant or Respondent(s) may challenge the appointment of the investigator on the ground that the proposed investigator has a potential conflict of interest or that having the proposed investigator conduct the investigation raises a reasonable apprehension of bias. The challenge must be submitted in writing to the Equity, Diversity and Human Rights Office as soon as possible after the potential issue is identified and the Office will make a decision on the challenge within five (5) working days of having received it. That decision will be final. Details of the challenge and the decision shall be noted in writing in the written report of the investigator.
- 9.4.3.3. Once the investigator has been appointed, the Equity, Diversity and Human Rights Office shall provide all documentation relevant to the complaint to the investigator. The investigator will then devise a written investigation plan outlining the process to interview the Complainant, the Respondent, and all witnesses whom the investigator determines to have any information relevant to the complaint. In addition, the investigator shall include in the report the names of any potential witnesses that had no relevant information, or were not available to be interviewed. If it appears to the investigator that other persons not named by the parties may have information related to the complaint, every effort will be made to interview those potential witnesses. It may also be necessary to re-interview the parties before issuing the report.

- 9.4.3.4. The investigator is solely responsible for determining the scope of the investigation, including which witnesses, if any, are to be interviewed. The investigator shall collect, review, analyze and assess the facts with respect to the allegation(s). The investigator shall be permitted to draw inferences and to assess the credibility of the persons interviewed.
  - 9.4.3.5. A typical investigation involves, but is not necessarily limited to, the information gathered in the complaint/response process, supplemented by interviews, if necessary, with the Complainant, Respondent and witnesses (in that order) and the review of any applicable documentary, physical, corroborative or contemporaneous or other evidence. Witnesses may include anyone who can provide information, records or details regarding an allegation or the circumstances surrounding a complaint. When material facts are not in dispute, interviewing witnesses may be unnecessary.
  - 9.4.3.6. There is an obligation on members of the University community to cooperate in the investigation of a complaint.
  - 9.4.3.7. If a Respondent declines to participate in the investigation process, in most cases it will be both possible and appropriate to proceed with an investigation without a statement (response) or interview of the Respondent.
- 9.5. The investigator shall use best efforts to complete the investigation within forty (40) working days from the time the investigator has been appointed. Where the investigation goes beyond this timeframe, the parties will be advised and will be provided with reasons for the delay.

## 10. INTERIM MEASURES

- 10.1. After a formal complaint is filed, the Executive Director may impose interim measures as necessary where allegations of sexual violence give rise to a significant personal safety threat to other students or members of the University community, including the Complainant, or where in all the circumstances, the Executive Director concludes that interim measures are otherwise necessary.
- 10.2. Interim prohibitions may include, but are not limited to the following:
  - 10.2.1. Limit the access on University Premises, as defined in the Laurentian University Student Code of Conduct, Non-Academic;
  - 10.2.2. Restrict the contact or association of the person or persons named in the complaint with certain individuals or groups;
  - 10.2.3. Suspend student privileges;
  - 10.2.4. Temporarily suspend a student from campus.
- 10.3. Any interim measures are in no way to be construed as a final determination that a student has committed misconduct.
- 10.4. The Executive Director shall adhere to the principle of proportionality when imposing an interim measure, and should seek to impose an interim measure that is least disruptive to the Respondent while simultaneously achieving the intended goals of the measures.

- 10.5. The student can appeal the interim measure in writing, within 10 working days to the Vice-Provost Academic who will reassess the interim measure and either revoke or continue pending the completion of the investigation and any subsequent appeals.
- 10.6. An interim measure imposed by the Executive Director shall remain in place until the Executive Director renders a decision at the conclusion of the hearing, unless otherwise ordered by the Executive Director.

## 11. NO REPRISAL OR RETALIATION

- 11.1. There shall be no reprisal or retaliation nor any threat of reprisal or retaliation against anyone pursuing their rights in good faith under this policy or who has provided information in good faith regarding a complaint, incident or report of an incident of sexual violence. Any such alleged reprisal or retaliation or threat thereof shall be equivalent grounds for laying a complaint under this policy and program. Retaliations can also constitute infractions under applicable legislation. Persons who engage in reprisals and retaliation and/or threats of reprisal or retaliation may be disciplined including being expelled from the University and/or dismissed from employment.

## 12. INVESTIGATION RESULTS AND REPORTS

- 12.1. The investigator shall submit a written report to the Assistant Vice-President, Equity, Diversity and Human Rights summarizing the results of the investigation and including a determination on a balance of probabilities as to whether or not the Respondent has violated this policy. If appropriate, the investigator shall decide whether or not the complaint was frivolous, vexatious, or made in bad faith.
- 12.2. The Assistant Vice-President, Equity, Diversity and Human Rights shall review the report and within five (5) working days of receiving the report will submit it to the Executive Director, Student Life and Enrolment Management ("Executive Director") or, in appropriate circumstances, the Executive Director's delegate. In that case, references to the Executive Director include her or his delegate.
- 12.3. Within the fifteen (15) working days of receiving the report, the Executive Director will decide, in accordance with this policy and program:
  - 12.3.1. which of the following remedies, if any, will be provided to the Complainant:
    - 12.3.1.1. Verbal or written apology from the Respondent;
    - 12.3.1.2. Compensation for lost wages;
    - 12.3.1.3. Job or promotion that was denied;
    - 12.3.1.4. Compensation for lost tuition;
    - 12.3.1.5. Transfer of the student with the student's consent from one course or section to another;
    - 12.3.1.6. Reassignment of graduate supervisors;
    - 12.3.1.7. Commitment that he, she or they will not be transferred, or will have a transfer reversed, unless he, she or they chooses to move; and/or

12.3.1.8. Change in work or study conditions or arrangements.

12.3.2. which of the following sanctions, if any, will be imposed on the Respondent:

12.3.2.1. Formal written reprimand.

12.3.2.2. Prohibit contact, correspondence or any other form of communication between the Respondent and the Complainant.

12.3.2.3. Deny or limit access to specified services, activities, facilities, and/or locations at the University for such period of time as may be determined;

12.3.2.4. Require the Respondent to attend a sexual violence prevention program or course;

12.3.2.5. Suspension from the University for a specified time period that is a minimum of one semester and a maximum of three semesters;

12.3.2.6. Expulsion from the University.

12.3.3. The sanctions to be imposed in the case of a frivolous, vexatious, malicious, or bad faith complaint.

12.3.4. When a student receives the sanction of suspension or expulsion:

12.3.4.1. The notations "suspended" or "expelled" from the "Department", "School" or "University" for misconduct shall be entered on the student's Transcript and Grade Report by the Registrar upon receipt of a notice of suspension or expulsion.

12.3.4.2. The suspension notation will be removed when the student graduates or five (5) years after the last registration.

12.3.4.3. The expulsion notation is permanent unless the Vice-President, Academic and Provost grants a petition for its removal. Any such petition may be made no sooner than five (5) years after the offence. Removal of the expulsion notation from the transcript does not overturn the expulsion decision, which will remain in effect.

12.4. The Executive Director will communicate her or his decision in writing to the Assistant Vice-President, Equity, Diversity and Human Rights. This decision shall be included in the Notice of Decision.

### 13. Appeal

13.1. The Respondent has a right to appeal a finding of misconduct or a sanction imposed under this Code, or both. The Complainant has a right to appeal from a finding that an allegation was frivolous, vexatious, or made in bad faith, or the remedies that were provided, or both.

13.2. Grounds for appeal include, but are not limited to, questions of fact, law, mixed fact and law, or arguments that the decision, sanction imposed, or remedy awarded is unreasonable in all of the circumstances.

13.3. Filing an appeal will not stay the implementation of any sanctions that have been imposed or remedies that have been awarded.

13.4. Appeals shall be heard by the University Disciplinary Appeals Panel (UDAP), which shall be struck by Vice-President, Academic and Provost. UDAP members must be able to respond to the student's preference to appeal in French or in English. UDAP will include:



13.4.1. Two (2) students at the same level of study as the student requesting the appeal, but not from the same Faculty; and

13.4.2. Three (3) Faculty members that are not from the same Faculty and who are not on sabbatical.

13.5. Notice of Appeal: The person appealing shall submit a notice of appeal to the Vice-President, Academic and Provost within 10 business days of the release of the decision. The notice of appeal must include a copy of the Executive Director's decision, the outcome a student is seeking, the name of the legal counsel or agent, the names of any witnesses to be called, and any documents on which the student will rely.

13.6. An appeal will not be accepted by the Vice-President, Academic and Provost if incomplete or not filed within the time period of ten (10) days. Exceptions to the time limit for filing an appeal are at the discretion of the UDAP, upon written application of the student. Appeal forms and any further details on hearing procedures may be obtained from the Office of Student Life.

13.7. Upon receipt of the Notice of Appeal, the Executive Director shall provide the Respondent with disclosure of all relevant documents in the possession of the University, including, applicable, the investigator's report and written recommendation.

13.8. The Executive Director shall prepare a statement that the respondent is alleged to have committed an act or acts of sexual violence, with sufficient particulars of the circumstances to enable the student to identify the alleged act or conduct giving rise to the allegations.

#### 14. Appeal Hearing Procedures

14.1. The appeal will be conducted as a hearing de novo. The report and findings of the investigator, and the decision of the Executive Director are not admissible without the consent of the student. The documents are admissible only to the extent and for the purposes agreed to by the student.

14.2. The UDAP will deliver a notice of hearing to the appellant and the Complainant at the same time. The notice of hearing shall provide the appellant with reasonable notice of the hearing and shall contain:

14.2.1. the time, place and purpose of the hearing; and

14.2.2. a statement that if the appellant does not attend at the hearing, the UDAP may proceed in the appellant's absence and the appellant will not be entitled to any further notice in the proceedings.

14.3. A hearing shall be held as an oral hearing with the appellant and the Executive Director as parties. The appellant and the Executive Director, and their representatives, if any, shall appear in person. The appellant and the Executive Director have the right to be represented by legal counsel at a hearing.

14.4. UDAP shall usually conduct the hearing in accordance with the *Statutory Powers Procedure Act*, Revised Statutes of Ontario, 1990, Chapter S. 22, as amended from time to time. UDAP, however, may choose to depart from these requirements in the particular circumstances of the case.

14.5. UDAP may decide that a hearing in a proceeding is not open to the public, having regard to the all of the circumstances, including, but not limited to: the preferences of the Complainant and the Respondent; the nature of the dispute and its context; the impact on the proceedings if observers and/or the media are present; the confidential nature of any witnesses or private information; whether there is any legitimate public interest in the issues; and the University's practice in other similar proceedings.

14.6. Where a hearing or a part of a hearing is held in the absence of the public, no person shall disclose, except to his, her or their representative, or to another person who attends at or participates in the hearing or the part of the hearing that is held in the absence of the public,

(a) any information, including documents, disclosed or entered into evidence in the hearing or the part of the hearing that is held in the absence of the public; and

(b) if and as specified by the panel, the panel's reasons for a decision or an order arising from the hearing or the part of the hearing that is held in the absence of the public, other than the panel's reasons for an order that a subsequent hearing or a part of the subsequent hearing be held in the absence of the public.

14.7. On the motion of a person, an order may be made permitting a person to disclose any information mentioned above.

14.8. The appellant shall not be compelled to testify at his, her, or their hearing.

## 15. Decision and Reasons

15.1. After the hearing, the UDAP shall, depending on the nature of the case, decide:

15.1.1. on a balance of probabilities whether or not the appellant committed an act or acts of sexual violence and/or determine the appropriate sanctions;

15.1.2. decide the appropriate remedies to be awarded to the Complainant; or

15.1.3. decide on a balance of probabilities whether or not a complaint was frivolous, vexatious, or made in bad faith, and determine and impose the sanction.

15.2. The UDAP shall give reasons for its decision.

15.3. A decision is effective from the date on which it is rendered.

15.4. The UDAP may impose any of the sanctions and award any of the remedies listed in paragraphs ♦

15.5. The decision of UDAP is final and is not subject to any further review, challenge, or appeal.

## 16. CONFIDENTIALITY

- 16.1. Confidentiality is required in all procedures under this policy. Because of the particular sensitivity of sexual violence and its consequences, confidentiality is of the utmost importance and will be maintained at all times, unless the safety of members of our community are at risk or subject to the disclosure requirements under this policy and/or the *Freedom of Information and Protection of Privacy Act, 1990* or any other applicable legislation. Maintaining confidentiality benefits everyone involved in the complaint process. Those making complaints shall not discuss the matter other than with the appropriate parties. Those involved in dealing with the complaints will disclose information only where absolutely necessary and the Complainant will be consulted before any disclosure of information is made. The importance of confidentiality will be stressed to all those involved in an investigation and everyone will be strictly required not to discuss the complaint with colleagues.
- 16.2. Confidentiality does not mean anonymity. In the instance of acting on a complaint, a fundamental principle is that the Respondent must be informed of who has made the allegations, and the specific nature of the allegations, and the relevant evidence in the possession of the University.
- 16.3. In limited situations it may be necessary to convey appropriate information to the administration in order for Laurentian University to fulfill its obligation as employer and policy enforcer. Additionally, and as prescribed in the Program on a Respectful Workplace and Learning Environment, the fact that a formal written complaint has been made by a Union member or against a Union member and the name of the Union member will be disclosed to the Complainant's and/or Respondent's Union.

## 17. NOTICE OF COLLECTION OF PERSONAL INFORMATION UNDER THIS POLICY

- 17.1. Any personal information about an individual collected in respect of this policy, is pursuant to *The Laurentian University of Sudbury Act, 1960*. Such information will only be used for the purposes and functions outlined in the policy. If you have any questions about the collection, use, and disclosure of this information please contact the senior administrator responsible for the policy.

## 18. POLICY REVIEW, AMENDMENTS AND EXCEPTIONS

- 18.1.1. The Equity, Diversity and Human Rights Office is responsible for the review and implementation of this Policy. This Policy will be reviewed at least once every three years.
- 18.1.2. Revisions to the Policy will be sent for comment to the student associations, unions and employee groups, and any other stakeholder, as determined by the Equity, Diversity and Human Rights Office, to ensure the provision and consideration of input from a diverse selection of students and employees.
- 18.2. Updates to the following information contained in this Policy do not require approval of the Board of Governors:

- 18.2.1.1. The supports and services referred to in paragraph 7.6 of this Policy;
  - 18.2.1.2. The identity of officials, offices, and departments at the University that provide information about supports, services and accommodation or that receive reports or formal complaints.
  - 18.2.1.3. The identity of officials, offices and departments of the University that will be involved in the investigation and decision making process.
- 18.2.2. A copy of this Policy as approved and amended is posted on the University's website and is always available to anyone who requests it.