

## POLICIES and PROCEDURES

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Responsible Unit	Human Resources
Last Reviewed/Updated	January 2019
Approving Sector Head	Vice-President Finance & Administration and CFO
Policy	<b>Sexual Violence Policy</b>

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### Purpose and Intent

Sexual violence is a serious issue and an incident of sexual violence can result in short and long-term negative consequences for individuals, communities and society as a whole.

The 2015-19 Memorandum of Understanding (MOU) between the Province of Nova Scotia and Nova Scotia Universities addresses sexual violence directly. The ***Improved Supports for Student Success*** section of the MOU details how “the Parties agree to specifically identify ways to improve student assistance and supports through collaborative and other initiatives aimed to address healthy minds, improve disability services, and a collective commitment to sexual violence prevention” (Province of Nova Scotia, 2015, p. 10).

The Standing Committee on the Status of Women (FEWO) Canada has studied violence against young women and girls in Canada, and issued a recent report titled: ***Taking action to end violence against women and girls in Canada (March 2017)***. Included in the report are specific recommendations for post-secondary institutions. Status of Women Canada is working with stakeholders, including provinces and territories, towards developing a harmonized national framework to ensure consistent, comprehensive, and sustainable approaches in addressing gender-based violence at post-secondary institutions across the country. Starting in 2019, for those universities and college campuses that are not implementing best practices addressing sexual assaults on campus, the Government of Canada will consider withdrawing federal funding.

The Acadia University Sexual Violence Policy will use the terms ‘complainant’ and ‘respondent’ rather than ‘victim/survivor’ and ‘accused’ in reference to individuals who have experienced or are accused of sexual violence. The term ‘complainant’ provides individuals with a choice of label, and both terms reflect the language more frequently used in an administrative process rather than a criminal justice process.

It is also important to recognize that systems of power and oppression such as racism, heterosexism, ableism, and colonialism are important factors in understanding the issue of sexual violence.

### Definitions<sup>1</sup>

**Acquaintance Sexual Assault:** Acquaintance sexual assault is an act of sexual assault committed by an individual known to the complainant. The respondent is in a position of trust because of this relationship and may use this trust to manipulate the situation.

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<sup>1</sup> The following definitions apply to this policy document and do not supersede those of the Criminal Code of Canada. In cases where remedy is sought through the court system, definitions provided by the Criminal Code will take precedent. The definitions in this policy document were taken from Appendix A of the 2017 “*Changing the culture of acceptance: Recommendations to address sexual violence on university campuses*” report.

**Consent:** Consent is “an agreement to engage in a sexual activity”. It must be fully voluntary, clearly communicated, and ongoing. All sexual activities that are engaged in must be consented to: if there is consent given for a particular sexual activity, this consent does not automatically extend to other sexual activities. Consent can be withdrawn at any time, including during a sexual activity that had previously been consented to. The *Criminal Code* (s. 273.1) defines consent, for the purposes of the sections prohibiting sexual assault, as ‘the voluntary agreement of the complainant to engage in the sexual activity in question.’ Consent does *not* legally exist if:

- Sexual activity is agreed to by someone other than the persons directly involved,
- The person is incapable of consenting to the sexual activity (for example, because they are under the influence of alcohol or drugs),
- An abuse of power, authority, or trust is used to coerce the complainant to engage in sexual activity, or
- One party expresses (through their words, conduct, inaction, or absence of words) a lack of agreement to engage in the activity.
- The person, having consented to engage in sexual activity, expresses (through their words, conduct, inaction, or absence of words) a lack of agreement to continue to engage in the activity.

**Equality/Equity:** Equality is the process of providing everyone in society with equal resources. Equity involves ensuring that everyone has access to the resources, opportunities, power, and responsibility *they need* to reach their full potential as well as making changes so that unfair differences may be understood and addressed

**Gender Expression:** Gender expression is the external appearance of one's gender identity, usually expressed through behavior, clothing, haircut or voice, and which may or may not conform to socially defined behaviors and characteristics typically associated with being masculine or feminine (although can be a blend of both or neither) and may not align with gender identity.

**Gender Identity:** Gender identity is one's innermost concept of self as male, female, a blend of both or neither – how individuals perceive themselves and what they call themselves. One's gender identity can be the same or different from their sex assigned at birth.

**Gender-based Violence:** Gender-based violence is any form of behaviour - including psychological, physical, and sexual behaviour - that is based on an individual's gender and is intended to control, humiliate, or harm the individual. This form of violence reflects an attitude or prejudice at the individual or institutional level that aims to subordinate an individual or group on the basis of sex and/or gender identity.

**Hyper-sexuality:** Hyper-sexuality is the preoccupation with sex in society. It includes the cultural and marketing messages that our value as individuals comes from our sex appeal and behaviour, the sexual objectification of people, the blurring of the lines between adult and child sexuality, the mainstreaming of pornography and the exploitation of sex and sexuality for marketing purposes. Hyper-sexualization is not the same thing as the normal process of sexual maturation and does not promote sexual health, or healthy relationships.

**Intersectionality/Intersecting Identities:** Intersectionality/Intersecting identities is an understanding that people and their experiences are shaped by their connection to different social locations (race, gender, class, sexual orientation, ability, age, religion). Individuals who identify with multiple forms of marginalized social

locations will be more negatively impacted by inequality in society. For example, Indigenous women experience gendered violence disproportionately in comparison to White women.

**LGBTQIA2S+:** An acronym used to represent individuals who identify as lesbian, gay, bisexual, transgender, queer, intersex, asexual, two-spirited (as well as questioning, pansexual or unsure). Sexual orientation exists on a continuum and therefore, there are other identities individuals may use which are not listed under this term.

**Rape Culture:** A culture in which dominant ideas, social practices, media images and societal institutions implicitly or explicitly condone sexual assault by normalizing or trivializing male Sexual Violence and by blaming survivors for their own abuse.<sup>2</sup>

**Sexual Assault:** Sexual assault is any form of sexual contact that occurs without ongoing and freely given consent. Sexual assault includes *any* form of sexual contact where consent has not been given (ranging from non-consensual touching that is sexual in nature to forced vaginal or anal penetration).

The *Criminal Code* (s. 265(1)) explains that a person commits assault when:

- without the consent of another person, he applies force intentionally to that other person, directly or indirectly;
- he attempts or threatens, by an act or a gesture, to apply force to another person, if he has, or causes that other person to believe on reasonable grounds that he has, present ability to effect his purpose; or
- while openly wearing or carrying a weapon or an imitation thereof, he accosts or impedes another person or begs

**Sexual Cyber-bullying:** Sexual Cyber-bullying is an electronic communication of a sexual nature, direct or indirect, that causes or is likely to cause harm to another individual's health or well-being where the person responsible for the communication maliciously intended to cause harm to another individual's health or well-being or was reckless with regard to the risk of harm to another individual's health or well-being.

**Sexual Harassment:** Sexual harassment is vexatious sexual conduct or a course of comment that is known or ought reasonably to be known as unwelcome; a sexual solicitation or advance made to an individual by another individual where the other individual is in a position to confer a benefit on, or deny a benefit to, the individual to whom the solicitation or advance is made, where the individual who makes the solicitation or advance knows or ought reasonably to know that it is unwelcome; or a reprisal or threat of reprisal against an individual for rejecting a sexual solicitation or advance. Sexual harassment is a type of sex discrimination, and is prohibited under human rights legislation, including the Nova Scotia *Human Rights Act*.

**Sexual Orientation:** Sexual orientation is an inherent or immutable enduring emotional, romantic or sexual attraction or lack of attraction (asexual) to other people.

**Sexual Violence:** Sexual violence is any sexual act, attempt to obtain a sexual act, or other act (touching, verbal, and physical intimidation) directed against a person's sexuality, gender identity, or gender expression,

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<sup>2</sup> Government of Ontario, Office of the Premier, *It's Never Okay: An Action Plan to Stop Sexual Violence and Harassment* (March 2015), online: <<http://docs.files.ontario.ca/documents/4136/mi-2003-svhap-report-en-for-tagging-final-2-up-s.pdf>>

using coercion, by any person regardless of their relationship to the complainant in any setting. Sexual violence may include sexual assault, sexual harassment, sexual cyber-bullying, stalking, indecent exposure, threats, voyeurism, and sexual exploitation.

**Survivor:** A survivor is defined as someone who has been victimized but is healing and beginning to cope with the trauma and is working towards getting beyond the traumatic event.

**Victim:** A victim is someone who has experienced some form of trauma, be it emotional, sexual, psychological or physical. A victim may be immobilized or prevented from living a life similar to his/her/their life prior to the trauma resulting in a victimized state.

**Victim Blaming:** Victim blaming occurs when the victim of a crime or an accident is held responsible - in whole or in part - for the harms that they have experienced.

### **Policy Statement**

Acadia University is committed to creating and maintaining an environment free from Sexual Violence and to promoting greater awareness of Sexual Violence through education. Acadia will create an environment where sexual violence is not tolerated, where everyone is responsible to take action to prevent against acts of Sexual Violence, and where complainants choose their course of action (subject to the necessary disclosure of confidential information relating to incidents of Sexual Violence in specific circumstances as outlined in this document), and where complainants are supported and treated with respect.

### **Jurisdiction**

The **Acadia University Sexual Violence Policy** applies to all members of the Acadia University community: faculty, staff, students, contracted employees working on university property or on behalf of the university, and visitors and guests of Acadia University or of members of the University community.

The Policy is inclusive of all Acadia University property and events hosted, sponsored by, controlled by or associated with Acadia University, university related travel including but not limited to travel by sports teams and study, experiential education, teaching or research conducted off-campus. This Policy also extends to private events off campus where the University may have an interest. Acadia University cannot monitor the environment external to the campus, however, university organizations/ teams/ clubs or representative individuals may be held responsible for their actions off-campus.

Acadia University has other policies and procedures in place that pertain to Sexual Violence, including the Acadia University Policy against Harassment & Discrimination and the Non-Academic Judicial Process. The Acadia University Sexual Violence Policy is intended to complement these policies and does not assume precedence over any other university policy, collective agreement, or prevailing laws.

This Policy in no way negates or impedes an individual's right to pursue a course of action through legal means, including pursuant to the Nova Scotia *Human Rights Act* or through the criminal justice system. All elements of this Policy comply with, and are subject to applicable laws, including the Nova Scotia *Human Rights Act*, the Nova Scotia *Occupational Health and Safety Act* and the *Criminal Code*.

### **Responsibilities**

Sexual Violence, in all forms, is prohibited under this Policy. All members of the Acadia University community have a responsibility to take steps to create and maintain an environment that is free from Sexual Violence.

Acadia University, through its Office of Student Services will work with a variety of campus partners, including the Acadia Students' Union, Student Resource (Counselling) and Health Services, Residence Life, other Student Services units, the Equity Office, Department of Safety and Security and the Acadia University Sexual Health Working Group to develop and deliver an annual education and awareness program that includes but is not limited to activities to promote Consent, address Sexual Violence, and communicate access to resources and supports.

Acadia University is committed to training for bystanders, first responders, and other members of the student, faculty, and staff communities on how to respond to complaints and reports of Sexual Violence. Individuals, offices, and volunteers involved in any Non-Academic Judicial adjudication will be trained in trauma informed processes.

Acadia University will at all times comply with its legal obligations pursuant to the Violence in the Workplace Regulations.

### **Commitments**

Acadia University acknowledges the trauma associated with Sexual Violence and supports the efforts of individuals to recover and identify appropriate resources to assist with their physical, mental, emotional, and spiritual health and wellness.

All members of the Acadia University Community are responsible to strive to provide a reassuring and caring response to anyone who discloses or reports an experience of Sexual Violence.

A response for the complainant will include:

- listening with respect
- an absence of irrelevant questions such as those related to past sexual expression or history
- respect for the individual to choose independently appropriate supports and to whom and how much to disclose / report
- helping a complainant identify and / or access available on and off-campus services and resources and assistance with safety planning
- non-judgmental support
- support to create provision of situational academic, residential, and recreational accommodations as appropriate to prevent further trauma
- respect for confidentiality and anonymity
- support whether the incident occurred on or off-campus

A response for the respondent will include:

- listening with respect
- sharing information regarding a fair and competent process
- helping a respondent identify and / or access available on and off-campus resources
- respect for confidentiality and anonymity
- support whether the incident occurred on or off-campus

## Disclosure, Reporting and Response

Acadia University acknowledges and supports the formal and informal reporting options available to individuals who have experienced Sexual Violence. Individuals may pursue any of the following reporting options:

### Off-Campus

- Criminal Reporting: Individuals may report to the RCMP. The Department of Safety and Security can facilitate and support the individual in making this report.
- Human Rights: Individuals may report allegations of Sexual Harassment, Sexual Violence, or discrimination based on any enumerated ground pursuant to the Nova Scotia *Human Rights Act*.

### On-Campus

- Policy against Harassment and Discrimination: allegations of Sexual Violence against any member of the Acadia University community can be made through the Equity Office pursuant to the Policy against Harassment and Discrimination.
- Non-Academic Judicial Process complaint: allegations of Sexual Violence against students can be made through Acadia's Non-Academic Judicial Process
- Human Resources: allegations of Sexual Violence against university employees can be made through the University's Human Resource office

The Policy against Harassment and Discrimination (<https://equity.acadiau.ca/harassment-discrimination-policy.html>) and the Non-Academic Judicial Process (<https://studentservices.acadiau.ca/non-academic-judicial-copy.html>) have specific complaint reporting procedures. Staff are available to explain the procedures and assist in the preparation of any written forms used in the complaint process.

Acadia University uses a Sexual Violence protocol to support complainants and ensure the campus community is considered in any response. An investigation can be initiated by a complainant at any time. Investigations using the Policy against Harassment and Discrimination are led by the Equity Officer; investigations using the Non-Academic Judicial Process are usually led by the Department of Safety and Security although the complainant may choose to investigate and file their own complaint.

Individuals who have experienced Sexual Violence and do not want to report the incident using a formal complaint system (on or off-campus), are encouraged to disclose their experience to any trusted person. This could include a university counsellor or the university chaplain, as well as other faculty, student, and staff resources.

## Confidentiality and Anonymity

Confidentiality is important to create an environment where individuals feel safe to disclose and to seek support and accommodation. Acadia University will therefore, use its best efforts to hold all confidential information disclosed to it as a result of this Policy in strict confidence.

All efforts will be made to follow the wishes of the individual(s) who have disclosed or reported an incident(s) of Sexual Violence and to safeguard the anonymity and privacy of these individuals, if desired. Acadia University will strive to protect their privacy and ensure that they receive appropriate accommodations and support.

All persons involved in the reporting of Sexual Violence are asked to respect the confidentiality of the complainant, the respondent, and witnesses. Findings and outcomes should not be disclosed without the

University's express permission.

The following circumstances, however, may require the University to disclose information relating to an incident of Sexual Violence:

- A student is at imminent risk of severe or life-threatening self-harm;
- A student is at imminent risk of harming another person;
- When compelled to do so by law. For example, the University may be required to release information to comply with a Court Order or subpoena;
- For the purpose of conducting an investigation into the allegations of Sexual Violence;
- There are reasonable grounds to believe that others in the University community may be at significant risk of harm based on the information provided.

Acadia University has a responsibility to balance the wishes of the person who has disclosed an incident of Sexual Violence with the obligation to protect the wider university community. In such circumstances, information would only be shared with necessary internal and/or external service areas/departments to prevent harm, on a "need to know" and confidential basis, but not necessarily with the identities of any persons involved. This approach is consistent with Nova Scotia's *Freedom of Information and Protection of Privacy Act*.

### **Maintenance of Statistics**

The Executive Director, Student Services, Equity Officer, and President, Acadia Students' Union will have the right and obligation to compile an Annual Report by July 1 each year, of the activities under this Policy in the previous academic year. This information will be compiled and reported in a manner that ensures the confidentiality and privacy of the individuals who have reported incidents of Sexual Violence. The report is for the purpose of community education, any agreed to pan-institutional reporting, and provincial regulations or legislated reporting that may be required.

All records related to any consultation or complaint will be preserved in a confidential fashion in accordance with applicable laws.

### **Related Resources**

In addition, if a person reporting an incident of Sexual Violence wishes to receive specialized medical care, more information, and/or report for the purpose of criminal investigation and inquiry, the following external options are also available:

- Sexual Assault Nurse Examiner (SANE) - A SANE nurse can provide special medical support and services for all genders (13 years of age or older). Additionally, they are able to offer a medical examination and collection of forensic evidence (up to 120 hours after the incident) for the purposes of criminal investigation and inquiry, if the person reporting the incident requests this. Call the 24/7 toll-free SANE crisis line 1-844-884-4177 or [feedback4@nshealth.ca](mailto:feedback4@nshealth.ca)
- RCMP - Sexual assault is a criminal offence in Canada. A primary role of the RCMP is to conduct investigations into alleged offences, including allegations of sexual assault. A person reporting an incident of Sexual Violence may wish to report it to the RCMP to discuss the possibility of laying criminal charges. It is ultimately the decision of the RCMP to decide whether to undergo a criminal investigation and whether to lay criminal charges. The phone number of the RCMP is (902)542-3817
- Emergency Department at Valley Regional Hospital in Kentville, is open 24 hours and is available for

- urgent medical attention. They may be reached at (902) 678-7381
- 911 (Emergency Health Services) 911 is an emergency service that can dispatch RCMP or an ambulance when immediate help is required
  - 811 (Advice from a Registered Nurse) 811 can provide advice for possible action for individuals who have experienced incident(s) of Sexual Violence.
  - Avalon Sexual Assault Centre - Avalon is committed to confidential, non-judgmental and professional service. The majority of the services provided by Avalon are free of charge. Phone: **902-422-4240** or [info@avaloncentre.ca](mailto:info@avaloncentre.ca)
  - The Red Door - The Red Door provides confidential sexual health services, health education, and health promotion to youth 13-30 years of age. The Red Door provides support without judgment, in a safe environment, complete with an expert staff and trained volunteers. The Red Door can be reached at **(902) 679-1411** or [info@thereddoor.ca](mailto:info@thereddoor.ca).
  - Acadia Students' Union (ASU) Legal Aid - The ASU retains the services of a law firm for the advice and assistance of all full-time students at Acadia University and ASU staff. This assistance is available for any legal problem, whether or not it is university related. There is no charge to the student for the initial half hour consultation. All consultations are confidential and are made by appointment - call (902) 585-2167

### Consequences and Outcomes

Individuals who are determined to have engaged in any form of Sexual Violence or to have violated this Policy may be subject to the following consequences imposed by Acadia University:

- Written warning or letter of reprimand
- Change of job or class assignment
- Ban from being in the same office or classroom as the complainant
- No-contact direction with the complainant
- Ban from campus or ban from specific campus activities
- Issuances of notice under the Nova Scotia Protection of Property Act
- Restriction of student participation in non-academic programs
- Restriction, relocation, or removal from residence
- Suspension, probation, expulsion, or termination in conjunction with existing disciplinary procedures and collective agreements
- In cases where the complainant chooses to pursue a complaint pursuant to the Nova Scotia *Human Rights Act* or to notify the authorities, respondents may be subject to legal consequences as determined by the deciding body. Consequences could include probation, periods of incarceration and/or monetary fines.

### Policy Review

The Acadia University Sexual Violence Policy will meet the requirements of the 2015-19 Memorandum of Understanding (MOU) between the Province of Nova Scotia and Nova Scotia Universities and any subsequent MOU agreements. The Policy and associated procedures and programs will be consistent with current best practices. Additionally, the Policy will be reviewed by a legal professional to ensure compliance with legal authorities.

The Policy will be reviewed annually for the 2018-19 and 2019-20 Academic Years and every second year thereafter.