

 PROCEDURE		
Procedure No.	Officer Responsible	
B.401.1	President	
Procedure Name		
Sexual Violence		
Policy This Procedure is Under	Date of Next Policy Review	
B.401 Sexual Violence Policy	2023	
Date Issued	Date Revised	Related Policies, Reference
May 10, 2017	October 7, 2020	B.401 (Sexual Violence Policy) B.511 (Discrimination, Bullying and Harassment Policy) E.407 (Violence in the Workplace Policy), B.310 (Protected Disclosure (Whistleblower) Policy), B.512 (Human Rights, Diversity, Inclusion and Equity), B.506 (Standards of Conduct), B.701 (Student Code of Conduct Policy), B.311 (Employee-Student Relationships) <i>Sexual Violence and Misconduct Policy Act, SBC 2016 c.23</i> <i>Freedom of Information and Protection of Privacy Act, RSBC 1996, c.165</i> <i>Human Rights Code, RSBC 1996, c.210</i> <i>Workers' Compensation Act, RSBC 1996, c.492</i>

1. PURPOSE

1.1. The procedures set out in this document are to set out the processes at Capilano University (the “University”), as outlined in policy B.401 Sexual Violence (the “policy”), to address sexual violence and to identify institutional, collective, and individual responsibilities in creating and maintaining an environment that reduces sexual violence and creates safer access for survivors to disclose and report. All members of the University community are encouraged to respond in a compassionate, respectful and empathetic way to a survivor who chooses to disclose.

- 1.2. These procedures outline the process the University will follow when a member of the University community chooses to disclose or report an incident(s) of sexual violence, including the role and responsibility of specific members of the University community and the supports and resources available more broadly.

2. SURVIVORS WHO CHOOSE TO DISCLOSE

- 2.1. The University acknowledges that it can be difficult to disclose an incident of sexual violence and that a survivor will disclose when they feel ready to. The University recognizes that disclosing an incident of sexual violence takes courage, that there are many barriers to disclosing, and that those barriers may be different based on lived experience and identity.
- 2.2. It is the survivor's choice whether to choose to disclose an incident(s) of sexual violence. A survivor can disclose at any time and to anyone at the University. However, the University encourages survivors to disclose as soon as they are ready to do so in order to access the supports that they may need.
- 2.3. Survivors may choose to disclose an incident(s) without making a report to the University or externally through criminal or civil processes.
- 2.4. The University recognizes that survivors are most likely to disclose to another member of the University community. Survivors can disclose to anyone who they trust. However, survivors are encouraged to disclose to the appropriate University resources in order to access specialized care and support by subject matter experts.
- 2.5. Students seeking support may confidentially disclose to the Student Support Advisor in the Office of Student Affairs, or Counselling Services. Counselling Services may refer students to the Student Support Advisor in the Office of Student Affairs for additional supports such as information on safety planning, accommodations support, reporting and healthcare options.
- 2.6. Employees or other members of the University community seeking support may confidentially disclose to Human Resources or to their supervisor. This could include the coordinator, chair, director, dean etc. Supervisors should refer employees to Human Resources if they receive a disclosure in order to access specialized supports.
- 2.7. Survivors may choose to have a support person present when they make a disclosure to a University resource. Anyone may choose to bring a friend, colleague or Elder to an appointment for a disclosure. Students may wish to bring a support person from the Capilano Students Union (CSU), such as the Director of Advocacy. Employees may choose to bring a support person and/or a union representative.

- 2.8. Survivors will be provided with information on all of their options including reporting. Survivors can request which options they may need, based on their circumstances. If a survivor chooses not to seek any supports, that is their choice and will be respected.
- 2.9. Survivors will be provided with culturally specific resources and supports if needed, in order to facilitate a safer pathway to disclose, report or foster healing. This could include traditional Indigenous wellness practices, appointments to take place in a location of their choosing that feels safer, or other supports as needed.
- 2.10. Students who experience sexual violence during a work placement or practicum can still disclose and report to the Student Support Advisor in the Office of Student Affairs to access supports, resources and to gain information about reasonable accommodations. Faculty responsible for the work placement or practicum placement will be notified if appropriate, in order to address any safety concerns for the worksite.
- 2.11. Appropriate supports and reasonable accommodations will be made available to all survivors who disclose or report at the discretion of the Office of Student Affairs and/or Human Resources. These supports may include:
- 2.11.1. safety planning and safety measures;
 - 2.11.2. academic and workplace accommodations;
 - 2.11.3. class schedule or work schedule changes;
 - 2.11.4. room changes in student housing;
 - 2.11.5. information about options and processes for reporting internally or externally;
 - 2.11.6. translation services to support disclosing and reporting processes;
 - 2.11.7. assistance with finding financial aid or;
 - 2.11.8. other supports as appropriate.
- 2.12. The Office of Student Affairs will request accommodations of an academic nature on behalf of a student to faculty members as required. Requests for academic accommodations by the Office of Student Affairs may include consultation with the department chair, coordinator, dean or faculty union.

3. RESPONDING TO A SURVIVOR WHO CHOOSES TO DISCLOSE

- 3.1. Members of the University community are encouraged to respond in a compassionate, respectful and empathetic way to a survivor who chooses to disclose. The most important thing to do for the survivor is to listen, believe and refer to the appropriate support resource to ensure specialized support.
- 3.2. Survivors should be advised of the policy and these procedures, and be informed of the available resources. Members of the University community should refer a survivor to the appropriate resource as outlined in these procedures.
- 3.3. The Office of Student Affairs and Human Resources will work in collaboration with other campus services as needed to ensure continuity of care. Any sharing of information will be within confidentiality and privacy guidelines as outlined by the *Freedom of Information and Protection of Privacy Act (FIPPA)*.
- 3.4. Data and records will be kept regarding disclosures and reports for the purposes of annual reporting by The Office of Student Affairs and Human Resources. Data and records will be maintained as per privacy legislation requirements.

4. SURVIVORS WHO CHOOSE TO REPORT

- 4.1. Survivors can receive information on reporting options available to them through the University and about external reporting options. Survivors can receive information on reporting options before choosing to make a report to the University or externally through legal or civil processes.
- 4.2. The following reporting options are available to survivors, depending on the status of the respondent:
 - 4.2.1. If the respondent is a student the report will be made to the Student Support Advisor in the Office of Student Affairs;
 - 4.2.2. If the respondent is an employee or any other member of the University community the report will be made to Human Resources.
- 4.3. Survivors may also choose to report to a local police department, make an anonymous third party report to police through a community-based anti-violence organization, explore civil processes or file a complaint to the Human Rights Tribunal. Survivors may decide to report to the University and/or external reporting options. The Office of Student Affairs or Human Resources can provide information on all reporting options.

- 4.4. The Student Support Advisor in the Office of Student Affairs can provide information about the process for getting a forensic exam and in some cases provide accompaniment to the hospital for a forensic exam for members of the University community.
- 4.5. A survivor who chooses to report is referred to as a complainant in the reporting process.
- 4.6. In cases where the individual accused of sexual violence is not a member of the University community or in circumstances where the University is unable to initiate an investigation under these procedures, a report may be referred to the local police, or to other community resources at the survivor's request. The survivor can request University supports to do so.
- 4.7. The University reserves the right to inform the relevant law enforcement agency without the consent of the survivor if there is a reasonable belief that the safety of a member of the University community is at high risk. This may be relevant in cases of domestic violence where other people may also be at risk. This decision may be evaluated by the Duty of Care Committee through thorough risk assessment. In these circumstances, the University will disclose to the survivor that this report is being made, and set up reasonable safety and support measures as needed.

5. RESPONDING TO REPORTS

- 5.1. Where the University receives a report, the University will exercise care to protect and respect the privacy and rights of both the complainant and the respondent.
- 5.2. Complainants and respondents will be made aware of all resources available to them when making a report and during an investigation process which may include a safety plan to protect the health and safety of the complainant, witnesses and other impacted parties. The Student Support Advisor is a resource for complainants, and The Student Rights and Responsibilities Advisor is a support for respondents.
- 5.3. Complainants and respondents will not have to engage or communicate with each other directly during a report and investigation process. This includes not being in the same space as part of the process.
- 5.4. The University will seek to achieve procedural fairness in dealing with all reports. The respondent will be given reasonable notice in writing of the details contained in the report and provided an opportunity to respond.
- 5.5. Initial Assessment:

- 5.5.1. The Manager, Student Affairs will conduct an initial assessment where the respondent is a student. A Human Resources Manager will conduct an initial assessment where the respondent is any other member of the University community. The purpose of the initial assessment is to determine whether the incident falls within the University's jurisdiction to investigate under this policy.
- 5.5.2. Upon completion of the initial assessment of jurisdiction, the Manager, Student Affairs or Human Resources Manager will determine whether there is enough initial evidence or potential evidence for the investigation to be conducted in a fair manner.
- 5.5.3. The initial assessment of both jurisdiction and available evidence may include the examination of evidence and/or contact with the respondent(s) and/or witnesses to solicit initial statements. Examples of other evidence may include documents, communication exchanges such as emails or text message, photographs etc.
- 5.5.4. The initial assessment will normally be completed within ten (10) business days of the receipt of the report by the Manager, Student Affairs or , Human Resources Manager.
- 5.5.5. If the Manager, Student Affairs or Human Resources Manager determine that the report meets both the jurisdictional and evidential requirements to proceed, a formal investigation will follow with the consent of the complainant.
- 5.5.6. If the Manager, Student Affairs or Human Resources Manager determine that the report does not meet jurisdictional and/or evidential requirements, the matter will be considered closed. The complainant will be notified in writing within five (5) business days of the determination. The complainant may still access support services and accommodations. A record of the report will be kept by the Office of Student Affairs or Human Resources and may be re-opened upon the introduction of new information or evidence.
- 5.6. In circumstances where there are multiple disclosures or reports pertaining to the same respondent, survivors/complainants will be notified. The identities of the survivors or complainants will remain confidential to one another unless consent is given to share that information.
- 5.7. The University will seek to achieve procedural fairness in dealing with all reports and when conducting investigations. The respondent will be given reasonable notice in writing of the details contained in the report and provided an opportunity to respond to the complaint as outlined in section 7 of these procedures.

- 5.8. The University will choose to appoint either an internal investigator(s) or an external investigator(s) to conduct the formal investigation. The University will ensure that those conducting investigations are trained in trauma and violence informed approaches.
- 5.9. Approval to appoint an external investigator(s) is determined by the President or designated Vice President.
- 5.10. If the President or a Vice President of the University are implicated in a report of sexual violence, the report will go to the Board. The Board will hire an external investigator to investigate the report in accordance with these procedures.
- 5.11. At any time in the process, the complainant has the right to withdraw the report or stop an investigation without consequences to the complainant's University status and activities. However, the University may continue to act on the incident identified in the report to comply with its obligation under the policy, section 4.3. A complainant who withdraws the report may still access support services and accommodations.
- 5.12. Recognizing that employees responsible for responding to disclosures, reports and conducting investigations may experience vicarious trauma, at their discretion, employees can consult with Human Resources and direct supervisors for appropriate supports.

6. INTERIM MEASURES

- 6.1. As part of an investigation process, the University may impose or facilitate interim measures as may be appropriate for the safety of the individuals involved and the University community. Interim measures are not intended to be punitive, but are intended to provide a safe(r) environment for all parties.
- 6.2. The authority to impose interim measures rests primarily with the Associate Vice President Student Success and/or the Vice President, People, Culture and Diversity. In the case of academic accommodations for students, interim measures would be recommended to the appropriate faculty member, chair or dean of the department, who would then make final decisions and implement the interim measures.
- 6.3. In some circumstances involving the temporary removal or withdrawal of a respondent, it may be that the President has final decision making for interim measures.
- 6.4. Interim measures will be communicated to the respondent and complainant in writing after the determination has been made by the Associate Vice President Student Success and/or the Vice President, People, Culture and Diversity.

- 6.5. In accordance with the *University Act*, University policies and applicable Collective Agreements, interim measures may include, but are not limited to:
- 6.5.1. alteration of the academic schedule of any student involved in the report;
 - 6.5.2. academic or workplace accommodations;
 - 6.5.3. a no-contact requirement;
 - 6.5.4. restricting a respondent's access to certain University facilities;
 - 6.5.5. temporary, non-disciplinary leave of a respondent;
 - 6.5.6. involuntary withdrawal; and
 - 6.5.7. any other interim measures as may be determined by the University.
- 6.6. Interim measures will remain in effect at the discretion of the Associate Vice President Student Success and/or the Vice President, People, Culture and Diversity.
- 6.7. When the incident involves law enforcement or other internal or external investigations, recommendations from these parties may determine safety measures and interim sanctions applied and the duration of the measures.
- 6.8. In circumstances where multiple members of the University community have been impacted by sexual violence, or where instances of sexual violence have become public knowledge within a department, safety measures may include communication to a specific department or to the broader University community. This communication would include information about the incidents (within the scope of privacy requirements) and information on supports and resources available.
- 6.9. Interim measures may be appealed to the President at any point during which the measure remains in place. Appeals can only be made on the grounds of proportionality of the measure to the incident. The President may choose to uphold, modify or remove the interim measure. The President will determine if an interim sanction will remain or be removed and this will be communicated in writing to the respondent within 5 business days. The decision of the President is not appealable. Unionized employees wanting to appeal their interim sanction may also do so through the grievance process through the applicable Collective Agreement.

7. FORMAL INVESTIGATION OF A REPORT – INTERNAL

- 7.1. The Associate Vice President, Student Success will appoint a University investigator to conduct the investigation where the respondent is a student.
- 7.2. The Vice President, People, Culture and Diversity will appoint a University investigator from Human Resources to conduct an investigation where the respondent is an employee or other member of the University community.
- 7.3. The Associate Vice President, Student Success or the Vice President, People, Culture and Diversity will make every reasonable effort to ensure that any internal investigator(s) appointed to conduct an investigation under the policy will have training in the area of sexual violence investigations through a trauma and violence informed approach.
- 7.4. The appointment of the internal investigator(s) will be made within seven (7) business days of the decision to refer the report to formal investigation.
- 7.5. The complainant will be notified of the appointment of the internal investigator(s) within five (5) business days of the appointment.
- 7.6. The respondent will be notified in writing of the investigation and provided details of the complaint by the Office of Student Affairs or Human Resources. The respondent will be given five (5) business days to respond to the complaint either in writing or in person, after which time the investigator(s) will review the available evidence and determine whether or not the investigation is able to proceed. The deadline for responding may be extended by the Office of Student Affairs or Human Resources based on a reasonable request from the respondent or based on other extenuating circumstances.
- 7.7. Reports are investigated by interviewing the complainant, the respondent, any witnesses and by reviewing any available documentation or other evidence. In the course of the investigation, the respondent will be provided all relevant information or evidence regarding the report and be given an opportunity to respond in full.
- 7.8. University employees receiving reports or conducting investigations should not ask the complainant questions about their sexual history as they are not relevant.
- 7.9. Any individual interviewed by the investigator(s) may be accompanied by a support person for the purposes of advice and/or other forms of support during the interview. The support person will not be permitted to speak on behalf of the individual being interviewed. The support person could be a friend, colleague, Elder or other community member. If the support person is a lawyer, the individual must inform the investigator(s) two (2) business days prior to an investigation meeting.

7.10. The investigator(s) will collect and compile all evidence into an investigative report. The investigation report will make a determination as to whether the respondent has been found at fault of sexual violence as per the policy, weighing evidence on the balance of probabilities. The investigation report will outline findings with evidence weighed based on reliability and relevance to the issue at hand. The investigation report will include findings and conclusions and may include recommendations.

8. FORMAL INVESTIGATION OF A REPORT – EXTERNAL

8.1. The President or designate will make every reasonable effort to ensure that any external investigator(s) appointed to conduct an investigation under the policy will have training in the area of sexual violence and trauma and violence informed investigation approaches. The University will keep a list of trained external investigators to select from with support from subject matter experts within the University.

8.2. The complainant will be notified of the appointment of the external investigator(s) within five (5) business days of the appointment.

8.3. In conducting the investigation, the external investigator(s) will have regard for University policies, including the policy and these procedures, and any relevant law.

8.4. Any individual interviewed by the external investigator(s) may be accompanied by a support person for the purposes of advice and/or other forms of support during the interview. The support person will not be permitted to speak on behalf of the individual being interviewed. If the support person is a lawyer, the individual must inform the investigator(s) in a timely manner.

8.5. The external investigator(s) will collect and compile all evidence into an investigative report. The investigation report will make a determination as to whether the respondent has been found at fault of sexual violence as per the policy, weighing evidence on the balance of probabilities. The investigation report will outline findings with evidence weighed based on reliability, probative value, and relevance to the issue at hand. The investigation report will include findings, conclusions and recommendations.

8.6. All investigations will be conducted in a timely manner within regular updates provided to complainants, respondents and witnesses to ensure ongoing communication and updates.

9. DETERMINATION

9.1. Where the respondent is a student:

- 9.1.1. The investigation report will be submitted to the Associate Vice President, Student Success and the Vice President, Academic & Provost.
- 9.1.2. If the Vice President, Academic & Provost, in consultation with the Associate Vice President, Student Success determines that the available evidence does not support any sanctions, the complainant and the respondent will be notified in writing. This does not preclude the respondent from further investigation and sanctioning upon the introduction of new information or evidence. The complainant and respondent may still access support services and accommodations as set out in the policy and these procedures.
- 9.1.3. If the Vice President, Academic and Provost, in consultation with the Associate Vice President, Student Success determines that sanctioning is justified, the respondent will be notified in writing of the specific sanctions being imposed and the appeal process. The possible sanctions are set out in the policy.
- 9.1.4. Where the Vice President, Academic & Provost believes that suspension or expulsion is justified, they will make recommendations to the President. The President will normally render a decision after reviewing the investigation report and recommendations. The President may also choose to meet with or solicit a written statement from the complainant and/or the respondent for the purposes of evaluating the weight of the sanction. If the sanction decided is suspension or expulsion, the President will notify the Board of Governors as per the *University Act*.
- 9.1.5. In the event that a sanction is modified in such a way that it increases in severity, the President will provide a written statement of reasoning to the respondent, then the Office of Student Affairs will be updated.
- 9.1.6. The President (or designate) will inform the Office of Student Affairs of the decision. The Office of Student Affairs will ensure that the decision is communicated to the respondent within five (5) business days. The Office of Student Affairs is also responsible for monitoring the imposed sanctions.
- 9.1.7. The Office of Student Affairs will inform the complainant in writing of the outcome of the investigation, but not necessarily the details of any disciplinary action taken against the respondent unless sharing that information is necessary for the protection of the complainant's health and safety.

9.2. Where the respondent is an employee or other member of the University community

- 9.2.1. The investigation report will be submitted to the Human Resources Manager and the Vice-President, People, Culture and Diversity.

- 9.2.2. If the Human Resources Manager and Vice-President, People, Culture and Diversity determines that the available evidence does not support disciplinary action or other sanctioning, the complainant and the respondent will be notified in writing within five (5) business days. This does not preclude the respondent from further investigation and sanctioning upon the introduction of new information or evidence. The complainant may still access support services and accommodations as set out in the policy.
- 9.2.3. If the Vice-President, People, Culture and Diversity determines disciplinary action or other sanctioning is justified, proceedings shall be instituted in accordance with the relevant University policies and/or Collective Agreements.
- 9.2.4. The Human Resources Manager will inform the complainant in writing of the outcome of the investigation, but not necessarily the details of any disciplinary action taken against the respondent unless sharing that information is necessary for the protection of the complainant's health and safety.

10. SANCTIONS

- 10.1. Possible sanctions can be found in the Policy, section 11.

11. BREACH OF SANCTIONS

- 11.1. Failure to complete or abide by imposed or agreed-upon sanctions is considered to be a further violation of the policy.
- 11.2. Breach of sanctions may lead to the imposition of new or escalated sanctions up to and including suspension and expulsion or termination according to University policy and/or the applicable Collective Agreement.

12. APPEALS PROCESS

- 12.1. Where the respondent is a student, appeals pursuant to the policy are made to the Student Appeals Committee. For the purposes of determining the submission deadline, the starting date will be the date that the decision is communicated in writing to the respondent.
- 12.2. Students can access support with the appeals process from the Director of Advocacy of the Capilano Students Union (CSU).

12.3. Where the respondent is an employee, any disciplinary action taken as a result of sexual violence may be subject to grievance under the relevant Collective Agreement or, where the employee is not covered by a Collective Agreement, appealed to the President. Appeals to the President must be filed within twenty-one (21) calendar days of the decision being communicated to the respondent in writing. Any decision by the President respecting an appeal under the policy and these procedures will be final, subject only to section 60 of the *University Act*.

13. RECORD KEEPING

13.1. Investigative reports and records of proceedings are confidentially maintained by the Office of Student Affairs and/or Human Resources. All records relating to a report will be kept for a period of no less than seven (7) years following the completion of all actions pertaining to a particular incident. After this time, records may continue to be kept on file if deemed necessary by the Office of Student Affairs or Human Resources and will otherwise be confidentially destroyed.

13.2. Records are not available to be copied or viewed by members of the University community unless required by the policy, these procedures or for the purposes of external legal proceedings.