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PREVENTION, EDUCATION AND RESPONSE TO SEXUALIZED VIOLENCE

<b>Approval Authority</b>	President
<b>Responsible Executive</b>	Vice President, Students and Enrolment Management
<b>Related Policies / Legislation</b>	Board Policy Direction Student Services, Student Activities and Associations (BPD-230), Board Policy on Harassment, Sexualized Violence, Discrimination and Physical or Emotional Abuse, Prevention and Resolution (BRP-201), Discrimination, Bullying and Harassment Prevention Policy (18), Safe Student Learning Community Policy (204), BC Human Rights Code, BC Freedom of Information and Protection of Privacy Legislation Bill 23, Sexualized violence and Misconduct Policy Act, Faculty and Staff Association (FSA) UFV Collective Agreement

**PURPOSE**

All students and employees at the University of the Fraser Valley (UFV or the University) have the right to work and learn in an environment that is free from any form of sexualized violence.

The University recognizes that sexualized violence is a systemic social and campus issue that can affect anyone at the University, but disproportionately effects individuals with intersectional identities such as female, those living with a disability, those who identify as a member of a visible minority group, members of the LGBTTQIA+ community, and those that are socio-economically marginalized. Intersectionality is the study of intersections between different forms of oppression or discrimination. As humans, we all carry a series of identities that make our individual experiences or oppression unique. Identities interact on multiple and simultaneous levels, and it is this interaction that contributes to social inequality and discrimination. UFV also recognizes that the University is a unique environment, in which power imbalances are inherent and systemic. These factors, along with an individual's personal history, affect individual experiences of sexual misconduct, the ability to access supports, and choices with regards to recourse. UFV will take this into account when carrying out its responsibilities under this policy.

The University recognizes its responsibility to increase awareness of sexualized violence, make efforts to prevent its occurrence within the University community, receive disclosures, support survivors and those impacted by sexualized violence, respond to reports of sexualized violence, deal fairly with those accused of sexualized violence, and deal fairly and firmly with those who have been found responsible for violating this policy.

The University recognizes that higher education is a system characterized by power imbalances and hierarchy. This policy commits to dismantling that systemic structure as it applies to sexualized violence.

**DEFINITIONS**

In this policy, the following definitions apply:

### **Sexualized Violence:**

The term sexualized violence is considered/used in a broad sense, and can include any unwanted act, physical, written and/or verbal, or psychological, carried out through sexual means or by targeting sexuality. It recognizes that there are many different forms of sexualized violence, and that gender exists along a continuum and people of all genders may experience sexualized violence. The term sexualized violence in this policy may include:

- a) Sexual assault;
- b) Sexual exploitation;
- c) Sexual harassment;
- d) Promoting sexualized violence;
- e) Stalking;
- f) Indecent exposure;
- g) Voyeurism;
- h) Academic mobbing;
- i) The attempt to commit an act listed in sections (a) to (h);
- j) The threat to commit an act listed in sections (a) to (h);
- k) An act listed in sections (a) to (j) that is committed through electronic devices or other means.

### **Confidentiality:**

Privacy and confidentiality are essential for creating an environment where those who have experienced sexual violence feel safe in disclosing their experience and seeking support. The privacy and confidentiality of those involved in a disclosure of sexual violence will be protected except in cases where there is a likely risk of harm to self or others, or when reporting or action is authorized or required by law.

Whether in the context of a disclosure or a complaint, all parties will be informed of the limits of privacy and confidentiality. In cases where confidentiality cannot be maintained, those affected will be informed and supported throughout the process. In such cases, only necessary information will be disclosed and only to those who need to know. In such circumstances, information would only be shared as necessary to prevent harm, and the name of the complainant would not be released to the public.

Incidents of sexualized violence reported or disclosed under this policy will be reported annually to the President of the University. This report will be anonymized and provided in an aggregate manner so no individual participants may be identifiable.

### **Procedural Fairness:**

The University will seek to achieve procedural fairness in dealing with all complaints. As such, no sanction will be applied against a person or group without their knowledge where there is an alleged breach of policy. Respondents will be given reasonable notice with full detail of the allegations and provided with an opportunity to answer to the allegations made against them.

Where the University becomes aware of an allegation of sexualized violence by a member of the University community against another member of the University community, the University may have an obligation to take steps to ensure that the matter is dealt with in order to comply with the University's legal obligation and/or its policies to investigate such

allegations to ensure the safety of the learning environment. In such cases, certain University administrators will be informed about the reported incident on a “need to know” and confidential basis, but information of the identities of the persons involved may not necessarily be released. In such circumstances, information would only be shared as necessary to prevent harm, and the name of the complainant would not be released to the public.

### **Consent:**

Consent is the active, voluntary agreement to engage, and to continue to engage in the sexual activity in question which is affirmed through words or actively expressed through conduct.

Consent obtained through the abuse of a position of trust, power, or authority, or through fraud, coercion, or due to fear of consequences, violence, or retaliation, is not voluntary consent. Consent cannot be implied, which means it must be affirmatively given and cannot be assumed by an individual’s silence or inaction.

The initiator of sexual activity is responsible for obtaining consent for that sexual activity. Consent can be withdrawn by any party at any time during the sexual activity through words or actions, and if consent is withdrawn, the activity must stop.

Consenting to one kind of sexual activity does not mean that consent is given for another sexual activity. Neither the relationship status of the parties nor past consent to sexual activity gives or implies future or ongoing consent. Individuals cannot give consent if they are not able to appreciate the nature of the sexual activity, nor appreciate the risks and consequences of the sexual activity or are otherwise unable to choose whether to engage in the sexual activity.

An individual is incapable of consenting if the individual is:

- a) Asleep or unconscious;
- b) Unable to appreciate the nature of the sexual activity, its risks and/or consequences;
- c) Unable to choose whether to engage in the sexual activity;
- d) Unable to consent due to impairment by drugs or alcohol; or
- e) Under the legal age of consent as defined in the Canadian Criminal Code.

A person’s sexual reputation or history of sexual activity cannot be submitted as evidence to prove that consent had been given.

There is an inherent risk that consent is not voluntary whenever there is a relationship of trust or authority in which there is an imbalance, or perceived imbalance of power. Where there is an allegation of sexual misconduct in these relationships, the nature of the relationship will be a significant factor in determining whether there was consent.

### **Accommodation:**

Accommodation is the process or action by which reasonable arrangements are made to support the academic, employment, health, well-being, and safety needs of a member of the University community impacted by sexual violence or a complaint of sexual violence. Examples of accommodations are, but not limited to; course withdrawals, extensions for course work, change of course section, workplaces accommodations, counselling supports, referrals to medical care and any interim measures to ensure safety and empowerment of the survivor.

### **Trauma Informed Approach:**

UFV empowers victims/survivors of trauma through dignity, respect, and compassion. The University upholds the individual's right to their own journey and is committed to offering choice and supports to empower an individual on their journey to recovery. UFV provides support through a compassionate and trauma informed lens. The University's trauma informed approach acknowledges the neurological, biological, psychological, and social impacts that violence has on an individual.

This approach includes but is not limited to:

- Recognizing the prevalence of trauma and sexual violence;
- Acknowledging the survivor/victim's need and right to safety;
- Minimizing re-traumatization;
- Empowering victims/survivors;
- Providing opportunities for choices related to reporting, disclosing, and support;
- Offering victim centric support;
- Empathizing and non-judgment of an individual's own path/lived experience; and
- Respecting the survivor/victim's right to privacy.

### **Victim/Survivor:**

Some who have experienced sexualized violence may choose to identify as a survivor. Individuals might be more familiar with the term "victim." The term survivor is used where relevant because some who have experienced sexual assault believe they have overcome the violent experience and do not wish to identify with the victimization. It is the prerogative of the person who has experienced sexualized violence to determine whether they wish to identify as a victim or survivor, and the University will honour that decision. For the purpose of this policy, a person who discloses a complaint shall also be identified as a complainant.

### **Student:**

An individual who has applied to enroll or is enrolled at UFV in a credit or non-credit course(s), program, or UFV activity.

### **Employee:**

Any member of the University community engaged in university-related business, as defined in the Discrimination, Bullying and Harassment Prevention Policy (18).

### **Interim Measures:**

The University may institute non-disciplinary interim measures in response to a disclosure or complaint of sexual violence. Interim measures are not disciplinary and are not sanctions under university policy. They may be instituted for the purpose of protecting any person involved or the investigation process and should be limited to the duration necessary to accomplish the identified purpose.

### **Power Differentials:**

UFV recognizes that certain relationships between students and other members of the UFV community are relationships of heightened trust and vulnerability. Sexual or intimate relationships between individuals in the following classes of members of the UFV community where there is a supervisory role or where an individual has influence over a student's current

or future academic activities, working conditions or career advancement are potential violations to this policy.

Such examples include, but are not limited to:

- Faculty, teaching staff members or emeriti, and students;
- Staff and students;
- Administrators and students;
- Coaching staff members and student athletes;
- Employee to employee where a power differential exists; and
- Student to student where a power differential exists.

#### **Academic Mobbing:**

Academic mobbing is a form of violence that occurs in academia in and outside of the work and class environment. This form of harassment and bullying can occur in-person and/or online and is strategic in nature. Forms of academic mobbing often include cyber bullying, fabrications, anonymous accusations, hateful messages, rumours, intimidation, public humiliation, withholding information, tampering with work, downplaying accomplishments, defamation, secret convenings to discuss target, and police-like surveillance and scrutiny.

UFV recognizes that these attacks occur more often to individuals based on one's gender, sexual identity, sexual orientation, and marginalized groups.

#### **POLICY**

Sexualized violence is unacceptable and will not be tolerated. UFV is committed to preventing sexualized violence. The University strives to be a space where students and employees are able to learn, work, express themselves, and live in an environment free from sexualized violence.

Students and employees who have experienced sexualized violence are encouraged to come forward to report.

It is UFV's intention to ensure all students and employees are supported in making a report and/or compliant about sexualized violence that they have experienced or witnessed (both first and third party) for the purposes of accessing services and/or ensuring their own safety.

UFV recognizes that individuals who have experienced sexualized violence may experience emotional, academic or other difficulties that may require support and/or accommodation. UFV also recognizes and understands the complexity in human experiences and that identities are affected by multiple varying factors such as ability, age, citizenship status, community, culture, faith, gender identity, history, institution affiliation, language, location, occupation, privilege, sexual orientation, socioeconomic status, race and any other invisible identities. Such complex identities may be subject to higher accounts of sexualized violence due to factors such as social inequities, power and oppression. Therefore, UFV understands the need for individualistic supports. UFV also recognizes that sexualized violence does not discriminate, and sexualized violence can happen to any one person regardless of, and including, such factors of identities.

#### **DISCLOSURES, REPORTS & THIRD PARTIES**

**Disclosure:**

The decision to disclose and the decision to report are separate decisions. An individual may choose to disclose sexual misconduct without making a report. Consequently, disclosure does not result in a report being made, and does not initiate an investigation or other action by UFV except as described later in this section.

UFV will make appropriate support services and assistance available to members of the UFV community on the basis of a disclosure regardless of whether they decided to make a report or whether UFV has the jurisdiction to investigate. If information about the member or the disclosure must be disclosed to allow the member to access support services and assistance, the information disclosed will be limited to the information required to provide the services or support.

Assistance will be available to members of the UFV community who have disclosed or reported sexual misconduct and may include: student residence relocation or short term emergency student housing; class schedule changes; provision of academic concessions; emergency funding for students; safety planning; temporary work reassignment, location reassignment, or scheduling changes; and the implementation of safety measures which may include temporary interim restrictions pursuant to the Safe Student Learning Community Policy (204).

If a disclosure is made to a member of the UFV community, that member is encouraged to contact the office of Student Support for support, including information on how best to respond to the disclosure and how to support the individual making the disclosure. Members of the UFV community who receive a disclosure are not expected to file a report related to the disclosure under the “report” section of this policy although, at the request of the individual making the disclosure, they may file a report under this policy on their behalf.

As provided in this policy, UFV will respect an individual’s choice not to make a report and where possible, will keep the disclosure confidential. In exceptional circumstances, where required by law, or where there is a risk of significant harm to anyone’s health or safety as determined by the Threat Assessment Team (TAT), the Executive Director of Student Affairs or designate may do one or both of the following: refer the matter for investigation as a report as detailed in the report section, in which case the individual who disclosed has the right not to participate in any subsequent investigation; or notify third parties, such as the police or child protection authorities.

If the office of Student Support has received more than one disclosure from different individuals involving a member of the UFV community, the Executive Director, Student Affairs, may seek the consent of the individuals making the disclosures to make an intuitional report based on the allegations in the disclosures but without providing the names of the individuals making the disclosures unless express consent is given.

If action is taken as described above, the Executive Director, Student Affairs, will notify the individuals who made the disclosures and will ensure that appropriate support services are made available to those individuals. The investigator will not receive or disclose the names of the individuals making the disclosures without the consent of those individuals, who have the right not to participate as witnesses in any subsequent investigation.

Subject to the above sections, records of disclosures made will be kept strictly confidential, and access to those records will be limited to the Executive Director, Student Affairs, and staff

members of the office of Student Support unless UFV is ordered to produce the records in a court proceeding or otherwise required by law.

### **Reports/Complaints:**

Anyone directly subjected to sexual misconduct, including an individual who is not a member of the UFV community, can make a report against a member of the UFV community under this policy.

Reports must be submitted to the [Safe Student Community reporting portal](#), where they will be addressed in accordance with the procedures to this policy.

Sexual harassment may fall within the scope of both the Discrimination, Bullying and Harassment Prevention Policy (18) and this policy. Reports that contain allegations of sexual misconduct other than sexual harassment will be addressed under this policy. Reports that contain only allegations of sexual harassment will be reviewed by the Executive Director, Student Affairs, who will determine, based on the particular facts of the case and in consultation with the individual making the report, which policy is better suited to address the allegations.

An individual can submit a report to the [Safe Student Community portal](#) and also pursue other processes external to UFV against the individual alleged to have committed the sexual misconduct. These external processes may include reporting to the police or initiating a civil action (including a complaint under the BC Human Rights Code). These are separate processes and submitting a report to the Safe Student Community portal does not result in a report to the police except when provided above, where UFV may notify third parties, such as the police or child protection authorities.

If an investigation initiated under the procedures to this policy and an external process is also being pursued, the Executive Director, Student Affairs, may elect, after consultation with the complainant, to continue with the UFV process or to suspend the UFV process as appropriate. Suspension of a UFV process does not prevent further action from being taken at a later date, as appropriate under UFV process.

### **Anonymous and Third-Party Allegations:**

Members of the UFV community who receive a disclosure should follow the processes set out in the disclosure portion of this policy. Members of the UFV community who receive a disclosure are expected to honour the choices of the person making the disclosure and should not submit a report that could interfere with the decision of the person making the disclosure.

Individuals, other than the individual who was directly subjected to sexual misconduct or a member of the UFV community who has received a disclosure, may submit a report to the [Safe Student Community portal](#) anonymously to advise the office of Student Support of their allegations of sexual misconduct.

UFV may be unable to proceed with an investigation based on anonymous or third-party allegations due to a lack of evidence or when proceeding would violate procedural fairness. In such cases, the Executive Director, Student Affairs, will consider whether any other steps can and should be taken, including referring the matter to the Threat Assessment Team (TAT).

In appropriate circumstances, where other evidence exists and where proceeding with an investigation based on anonymous or third-party allegations would not violate procedural fairness, the Executive Director, Student Affairs, may exercise discretion to proceed with an investigation. In such cases, the individual who experienced the alleged sexual misconduct has the right to refuse to participate in the investigation.

Before proceeding with an investigation based on anonymous or third-party allegations, the Executive Director, Student Affairs, will notify the individual identified as having experienced the alleged sexual misconduct of the allegations and will make support and options for response available to the individual.

If UFV is unable to proceed with an investigation based on anonymous or third-party allegations, the allegations will be retained by the office of the Executive Director, Student Affairs. These allegations will be kept strictly confidential, and access to them will be limited to the Executive Director, Student Affairs, and the Vice President, Students.

### **RESPONSIBILITY FOR PREVENTION, AWARENESS AND RESPONSE**

Sexualized violence is a symptom of systemic injustice created through historical action. The university is committed to engaging in action that challenges and dismantles those systemic injustices by:

- a) Recognizing that sexualized violence is a systemic issue;
- b) Operating in accordance with the collective agreement, university policies, standards, and ensuring fairness and due process for all;
- c) Creating accessible systems that promote a person's willingness to report or seek support. Concepts of access, education, confidentiality, and cultural support should be centered in this work;
- d) Acknowledging that as culture and society move forward and our understanding changes, so too does our understanding of intersectionality with this policy;
- e) Monitoring and updating our policies and protocols to ensure that they remain effective and align with other existing policies and best practices;
- f) Understanding the contemporary climate of sexual violence within its community. This will be accomplished through a bi-annual research study of campus sexualized violence and through annual aggregate reporting of sexualized violence disclosures and complaints to the Office of the President;
- g) Providing support and proceedings that are culturally sensitive to the needs of those involved;
- h) Increasing our understanding of sexualized violence as it continues to evolve. This evolution is informed by research on topics and with groups that support the principles of decolonization, consent, and inclusivity. The university does not support research that is sexist; and
- i) The understanding that pay inequity on the basis of gender is a systemic symptom of sexualized violence and UFV is committed to providing equal pay for equal work.

The university commits to supporting members of the UFV community by:

- a) Empowering individuals to access detailed information and support, such as provision of and/or referral to counselling and medical care, information about legal options, and appropriate academic or other accommodations;
- b) Providing support to those who disclose that they have experienced sexualized violence or are accused of sexualized violence, and those who witness sexualized violence. UFV will also protect the above individuals' rights to dignity and respect throughout the process of disclosure and institutional response;
- c) Taking a trauma-informed approach to sexualized violence, recognizing that victims and survivors may be traumatised by their experiences and that the University's approach needs to be grounded in an understanding that peoples' experiences will be affected by many factors such as their sex, ancestry, race, ethnicity, language, ability, faith, age, socioeconomic status, sexual orientation, gender identity, citizenship status and other invisible identities;
- d) Take appropriate action to address sexualized violence threats or risks to the safety of others. This may include taking appropriate measures to prohibit visitors and others from campus that pose a threat to the safety of others;
- e) Providing coordination and communication among the various departments who are involved in the response to sexualized violence on campus;
- f) Providing information to the University community about our sexualized violence policy and protocols;
- g) Providing education designed to prevent sexual violence. Completion of this training will be required for all new students within their first semester on campus, and will be required for staff and faculty on an annual basis;
- h) Providing appropriate education and training to the University community about responding to the disclosure of sexualized violence;
- i) Encourage members of the University community to immediately report sexualized violence incidents they witness or have knowledge of, or where they have reason to believe that sexualized violence has occurred or may occur;
- j) Encourage persons in a position of authority, including persons directing the activities of others, to take immediate action to respond to or to prevent sexualized violence from occurring.

## **RIGHTS AND RESPONSIBILITIES OF STUDENTS AND EMPLOYEES**

Students and employees are their own best advocates; a reasonable measure of self-reliance, information gathering, communication with university staff, faculty and administrators is an important aspect of academic and employment success.

### **Making a Disclosure, report, or Complaint:**

For students, a complaint of sexualized violence can be filed online under the Safe Student Community Policy found at: <https://www.ufv.ca/safe-student-community/> by any member of the University community. Students can also file a complaint to any faculty or staff member of the UFV community who will then follow policy in referring that complaint forward.

For complaints of sexual violence involving an employee, either as the party making the complaint or the party alleged to have committed sexualized violence, the complaint can be filed under the Discrimination, Bullying and Harassment Prevention Policy (18).

The University will seek to achieve procedural fairness in dealing with all complaints. As such, no sanction will be applied against a person or group without their knowledge where there is an alleged breach of policy. Respondents will be given reasonable notice, with full detail of the allegations and provided with an opportunity to answer to the allegations made against them.

#### **Right to Withdraw a Complaint:**

The University honours a complainant's agency and supports victim/survivor choice. This means that complainants will be supported in making a decision that is best for their well-being when it comes to choosing whether to make a disclosure or a complaint. A complainant has the right to withdraw a complaint at any stage of the process. However, in certain circumstances where the University has a duty to act and comply with its obligations under applicable policies and/or its legal obligations, the complainant will be informed at the earliest possible time of this duty, and all potential implications of this action. All efforts will be made to ensure that participants are treated with respect, empathy, confidentiality to the degree it is possible in this circumstance. If the reporting individual has any questions or concerns about this, they should consult with the appropriate office prior to sharing any information. Reporting students should consult with the office of Student Support. Reporting employees should consult with the Human Rights Office.

#### **Protection from Reprisals, Retaliation or Threats:**

It is prohibited by this policy for anyone to retaliate, engage in reprisals or threaten to retaliate against a complainant or other individual for:

- Having pursued rights under this policy, other applicable policies or the British Columbia Human Rights Code;
- Having participated or co-operated in an investigation under this policy, other applicable policies or the British Columbia Human Rights Code; or
- Having been associated with someone who has pursued rights under this policy, other applicable policies or the British Columbia Human Rights Code.

#### **Amnesty in Reporting:**

Research has shown that alcohol and/or drug use is a common factor in sexual violence. This section reaffirms that consent cannot be given while under the influence of drugs or alcohol. Further, victims of sexualized violence may be reluctant to come forward for various reasons, which may include a fear that they may be disciplined under other university policies or regulations such as those around alcohol or drug use. UFV wishes to empower students to make reports of sexual misconduct or other violence and to remove barriers that may discourage such reporting.

UFV will not bring student disciplinary charges related to policy or regulation violations against students who are witnesses or victims of sexual misconduct or other violence. UFV will not report such conduct and/or report students who are receiving assistance as a result of a report as described above.

The amnesty afforded by this rule applies only to UFV policy related to violations that occur at or near the incident of sexual misconduct or other violence upon which a complaint is based.

#### **Multiple Proceedings:**

If criminal, civil, or administrative proceedings are commenced in respect of allegations of sexual violence and misconduct, the University reserves the right to proceed with, put into abeyance, pause, or suspend its own processes. This is to ensure the integrity of a potential external investigation.

The University will follow any external orders issued by the courts and will attempt to provide reasonable academic accommodations to individuals whose access to education is restricted by such orders.

The University maintains the right to utilize interim measures where it feels appropriate to ensure the safety of the learning environment and of the University community. The complainant will be informed of any interim measures that have direct impact on their safety or well-being. The University will make a reasonable effort to inform the survivor/victim of its intentions in relation to university processes.

#### **Unsubstantiated Complaints:**

If a person makes a sexualized violence disclosure, or files a complaint under the Safe Student Learning Community Policy (204) or other applicable policies that is not supported by the available or supplied information, the complaint may not be able to proceed under policy but may be reinitiated if further information becomes available. The University commits to provide trauma informed accommodations to the complainant and supports will still be made available to anyone reporting or disclosing sexual violence.

### **RESPONSE AND RESOURCE INFORMATION**

The University is committed to providing an environment that is respectful of the rights, responsibilities, well-being, and dignity of all its members.

For students, this policy is supported by information contained in the Safe Student Community website found at <https://www.ufv.ca/safe-student-community/>. A complaint of sexual violence against a student will follow the process outlined in the Safe Student Learning Community Policy (204).

This website:

- Provides information on student rights and responsibilities and behavioural expectations set by UFV;
- Identifies behaviours that may be subject to intervention or discipline;
- Provides links to relevant policies;
- Illustrates the process to report allegations of disruptive behaviours; and
- Provides contact information to a variety of student services that may be helpful.

For employees, the policy is aligned to the Discrimination, Bullying and Harassment Prevention Policy (18). The University's Faculty and Staff Association (FSA) Collective Agreement and other university policies also set out the University's commitment to creating a civil and safe environment.

#### **REVIEW**

UFV is committed to reviewing this policy every three (3) years to maintain currency and relevance. Under the direction of the Vice President, Students, a committee will be formed to include students, faculty, administrators, and staff to review this policy. The committee will be formed with the best principles and practices of inclusion, diversity and equity and will seek to include representative intersectional identities.