

**5.G-2016 Sexual & Gender Based Harassment and Violence Policy**

**1. Purpose**

The purpose of this policy, in alignment with the *Alberta Occupational Health and Safety Act* and in accordance with the *Human Rights Act*, as well as the related university policies (i.e., Health and Safety Policy, and Respectful and Inclusive Community Policy) is to ensure all individuals of the university community share the commitment to create a safe, working and learning environment. St. Mary's University cultivates and preserves a welcoming, inclusive, safe and respectful community that is free of sexual or gender-based harassment and violence. This includes activities on or university-related events off campus, which could reasonably be associated with the university's learning and working activities. This will allow the university to promote and maintain a vibrant work and learning environment where everyone is treated with respect, civility and dignity.

The University recognizes that sexual and gender-based harassment and violence can occur in campus settings and does not condone such behaviour or blame survivors, complainants and/or those making a disclosure. Any instances of sexual or gender-based harassment or violence should be reported, whether they are the target of, or witness an incident.

Reported incidents will be dealt with quickly, effectively, and fairly to reduce harm and encourage appropriate behaviour while being cognizant of potential intersectional impacts. In all cases where a concern is raised and/or a formal complaint is made, a full review of the situation will occur to determine appropriate steps of action.

Regular policy review cycles will be conducted approximately every five (5) years or as needed.

**2. Application & Scope**

This policy applies to any St. Mary's University members including students, employees, contractors, consultants, visitors, board members, volunteers or employees of organizations representing the university affected by any type of sexual or gender-based harassment or violence, whether it alleged to have occurred:

- i. on University property;
- ii. at a University related event on or off University premises where the Respondent and/or Complainant are acting as an individual representing the University; or
- iii. in virtual environments i.e., electronic or social media platforms, that are primarily connected to University events.

Approval Authority	Responsible Office	Effective Date	Date Last Revisited
Board of Governors	AVP Human Resources	April 11, 2024	April 11, 2024

### **3. Parameters of Consent**

The voluntary agreement to engage in specific sexual activity or behaviour requiring that a person is able to freely articulate a choice, which includes the possibility of refusal. This means that there must be an understandable and ongoing exchange of affirmative words or conduct, which indicates a willingness to participate in mutually agreed upon sexual activity regardless of the parties' relationship status or history together. For the purposes of this definition, consent shall not include sexual activity in circumstances:

- i. Where a person is not communicative or unable to communicate;
- ii. Where a person has been threatened or coerced (i.e., is not agreeing voluntarily);
- iii. Where a person is asleep, unconscious, incapacitated, or under the influence of alcohol and/or drugs to the extent that that the person is incapable of giving consent;
- iv. Following the withdrawal of consent.
- v. The fact that consent was given in the past does not mean that consent is deemed to exist for present and future sexual activity.

*Please Note:*

Based on the parameters of consent in this policy, though situations may vary, individuals may or may not be held to courses of action detailed in the university's Consumption of Alcohol and Cannabis policies.

### **4. Procedural Guidelines**

#### **4.1 Concern or Incident**

Certain situations can often be resolved through direct communication. Provided that the individual feels comfortable and safe doing so, St. Mary's supports individuals who experience gender-based sexual harassment or violence with the option of pursuing a reconciliatory approach, or by reporting a confidential complaint without the need for a face-to-face encounter. Relevant St. Mary's University contacts are available for support and assistance should the individual wish to pursue a reconciliatory approach or reporting. All incidents of concern regarding sexual or gender-based harassment or sexual or gender-based violence should be reported promptly to the relevant contact in the Reporting section of this policy. This includes individuals of the St. Mary's community who receive notice of or who observe instances of sexual or gender-based harassment or violence. If the individual in question is a student, the complainant should contact the Assistant Vice President (AVP) of Enrolment and Student Experience directly. If the individual in question is in a leadership role, the complainant should contact the Human Resource department directly. In the event that the complaint is about Human Resources, the President and/or their elected representative will manage the complaint process. In the event that the complaint is about the President, Human Resources will work directly with the Chair of the Board of Governors. Where necessary i.e., conflict of interest for Human Resources or in cases of appeal, an independent third-party may be brought in to support the investigation and resolution process.

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In consideration of and respect for all parties involved, individuals notified about an incident will handle all complaints promptly and incidents will be fully reviewed and handled with confidentiality, sensitivity and expediency. During the time of an active investigation, individuals who seek health professionals for treatment or referrals are encouraged to access resources for support (see Section 8 of this policy).

To ensure the safety and well-being of everyone in our community, threats of reprisal or retaliation against any individual who participates in this process will not be tolerated.

### 4.2 Reporting

Important items to keep in mind when encountering or witnessing sexual or gender-based harassment or violence include:

#### 4.2.1 Speak Up

Communicate objection(s) clearly and ask the individual to stop as soon as possible if not immediately, wherever it is reasonable to do so. If possible, tell the person that you are not comfortable with the behaviour, that you do not consent, and want it to stop, either directly and/or with an email.

#### 4.2.2 Record It

Keep a written record of incidents (dates, times, locations, possible witnesses, what happened, your response). The written record is optional and not required to be able to report a concern/complaint; but depending on the nature of the behaviour, the emotional impact, and other factors, a diary will be of assistance in recounting the incident(s) and subsequently resolving the matter.

#### 4.2.3 Report It

Report the incident(s). A complaint is strongly encouraged within one year of the alleged offence, but not required.

For the purposes of this policy only, reporting and disclosing, anonymous and third-party complaint options are also available.

Reporting options include, but are not limited to:

##### a. Criminal Option

Reports/complaints can be made to the police in an effort to pursue criminal charges under the *Criminal Code of Canada*. Those choosing this reporting option should contact the relevant primary contact below to ensure that St. Mary's University is aware of all incidents.

##### b. Non-criminal On-Campus Options

- Student Reporting:  
Primary Contact: AVP of Enrolment and Student Experience  
Alternative Contact: Human Resource personnel  
([campus.integrity@stmu.ca](mailto:campus.integrity@stmu.ca))

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- Employee Reporting:  
Primacy Contact: Human Resources personnel  
([campus.integrity@stmu.ca](mailto:campus.integrity@stmu.ca))  
Alternate Contact: Relevant Area Leader
- Anonymous Reporting:  
Primary Contact: Front Desk of the Administration Building  
Enclose a note in a sealed envelope, marked "Confidential", and address to HR, the AVP of Enrolment and Student Experience, or the President, as appropriate.

*Please note:*

Individuals have the option of sending a confidential email to report, and also have the option of sealing an anonymous note in an enveloped marked private and confidential in an interoffice envelope and asking front desk administrator for Human Resources to disseminate to the appropriate contact.

Though the individual who discloses an incident has the right to withdraw a complaint at any stage of the process, the University may continue to act on the complaint to comply with policy obligations and/or legal obligations. This includes instances where the respondent ends their relationship with the school i.e., transfers or drops out, etc. and/or the requirement to report when minors are involved.

4.2.4 Self-Care - Tell someone you trust what is going on and/or access relevant support resources (see Section 8 of this policy).

It is important for individuals to know that they will not be penalized, reprimanded or in any way criticized when acting in good faith while following this policy and the supporting procedures for addressing situations, and reserve the right to exercise the worker's rights under Occupational Health and Safety legislation. Anyone who makes a complaint or reports an incident is protected against retaliation, including any deliberate action taken in response to an inquiry, complaint, or investigation by an employee that adversely affects the employment or business relationship of the individual who experiences the retaliation.

### 4.3 Maintaining Confidentiality

Confidentiality will be maintained at all times and to the fullest extent possible. While employees or students may make anonymous complaints, the ability to address such complaints may be limited if there is not enough information to determine the appropriate next steps. Though it is certainly not required, employees and students are encouraged to identify themselves when making complaints to ensure that the necessary details are obtained to appropriately address their complaint.

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The University pledges to respect the privacy of all concerned as much as possible, and will not disclose the circumstances related to an incident or the names of the complainant, the individual alleged to have committed the violence, and any witnesses, except where necessary:

- i. to investigate the incident or to take corrective action;
- ii. to inform the parties involved in the incident of the results of the investigation and corrective action taken;
- iii. to inform individuals; or
- iv. as required by law.

### 4.4 Investigation

Complaints and related events will be managed with compassion and sensitivity, and will appropriately investigate any allegations, taking fair, equitable and appropriate, corrective action to address any reported incidences.

Human Resources will lead employee related investigations, while AVP, Enrolment & Student Experience will lead student related investigations, while keeping Human Resources informed for support, absence coverage and/or collaboration purposes when in situations where health and safety, or investigations where there is student and employee involvement.

When an investigation is conducted, the investigator will follow standard University investigation processes, which will follow the Student Non-Academic Policy for students and the Respectful and Inclusive Community Policy processes for employees. Upon review of the report, an estimated timeframe will be provided to the individual who filed the report based on the complexity of the investigation and any underlying circumstances.

Individuals who are interviewed in relation to a complaint or investigation must abide by the *Personal Information Protection Act (PIPA)* and the *Freedom of Information and Protection of Privacy Act (FOIP)*, and not discuss the allegations, evidence or other information they learn during the process with anyone. Confidentiality, including protecting the identity of parties and witnesses, will be balanced against the requirements of procedural fairness; any disclosure obligations (i.e., communication of the complaint to alleged harasser); being fair to the person named in the matter; and permitting that person to hear and respond to the complaint.

In cases where individuals elect to also file a complaint through the criminal option, St. Mary's University will willingly cooperate in a police investigation if asked to do so. The University has the discretion to suspend, pause or terminate its own investigation but is under no requirement to do so. Further, the University will report incidents of sexual or gender-based harassment or violence to Police Services in circumstances where minors are involved and or circumstances of imminent risk of harm to self, others or to public safety.

### 4.5 Resolution

The University recognizes that there are a number of methods for dealing with incidents of sexual or gender-based harassment or violence. Appropriate corrective actions take into

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consideration the severity of the incident and the damage caused. Possible corrective actions may include training, informal resolution including mediation, a formal apology, a referral to relevant support resources, reassignment, a report to a professional body, or corrective disciplinary action up to and including termination or expulsion.

The University Privacy Office will secure and maintain accurate and complete records of reports and investigations of sexual or gender-harassment or violence on behalf of the University. If no disciplinary action is taken as a result of a complaint made in good faith, there will be no record of the complaint in the file of the individual(s) involved.

Regardless of the outcome of a complaint made in good faith, the complainant and respondent, as well as anyone providing information will be protected from any form of retaliation. If any reprisal occurs, disciplinary action will be taken up to and including possible termination or expulsion. The complainant and respondent will be provided with a summary of the findings along with direction on how to recognize, respond to and report any form of retaliation.

### 5. Appeal

Any individual can appeal the resolution through an Appeal Hearing. Depending on the nature of the appeal, it will either follow the Collective Agreement, Student Non-Academic Misconduct Policy or the university's Human Resources appeal process, which may include soliciting an external resource where applicable in cases of possible conflict of interest.

### 6. Education and Training

All individuals as defined in this policy should participate in educational and training programs offered to gain insight into sexual or gender-based harassment and violence topics.

- i. In addition to this, all individuals of the community can assist with educating others in the community to provide a safe work environment by:  
Modeling healthy and respectful behavior in all relationships at the University;
- ii. Speaking out against any observed instances of sexual or gender-based harassment or violence and encouraging reporting as necessary; and
- iii. Promoting and educating around safe disclosure processes

In cases of disclosure, investigators are responsible for:

- i. identifying signs and symptoms of sexual or gender-based harassment and violence;
- ii. responding empathetically and in a trauma-informed manner to any alleged victim of sexual or gender-based harassment or violence;
- iii. understanding legal aspects of sexual or gender-based harassment and violence;
- iv. identifying sexual or gender-based harassment and violence and know how to respond; and
- v. recommending prevention methods where necessary.

## **7. Interim Measures**

Interim measures are actions taken to immediately mitigate and protect an individual from threats or potential threats and can be initiated after someone experiences sexual or gender-based harassment or violence. These measures may be applied by the University, based on the complaint, to the individual(s) alleged to have compromised the safety or dignity of another St. Mary's community member to protect both the respondent and the complainant and prevent further harm (including retaliation). This creates space for a thorough and timely investigation, while maintaining a safe learning and working environment for St. Mary's community members. These measures will be as minimally restrictive as possible to meet the goal of safety and will be responsive to the needs of the individual(s) involved.

Any St. Mary's community members affected will be provided with:

- Information on relevant university policies and processes
- Referrals to or information about support resources

Student interim measures may include, but are not limited to:

- Requirement not to have contact with specified individuals
- Change in class schedule and/or course delivery mode
- Limited access to specified areas at specified times
- Academic modification options
- Increased monitoring or supervision

Employee interim measures may include, but are not limited to:

- Requirement to have limited or no contact with specified individuals
- Limited access to specific areas at specified times
- Change in work assignment, schedule, or location

## **8. Resources**

### **8.1 On-Campus Support Resources**

- i. Campus Security line at 403-671-HELP (403-671-4357)
- ii. Human Resources for all employees i.e., administrative staff and faculty (campus.integrity@stmu.ca)
- iii. StMU Cares (cares@stmu.ca)
- iv. Campus Counselling Services for Students by booking an appointment on <https://stmu.janeapp.com/> or emailing counselling@stmu.ca
- v. Accessibility Services for reasonable academic modification options (access@stmu.ca)

### **8.2 Off-Campus Support Resources**

- i. Emergency services (911)
- ii. Calgary Police non-emergency services (403-266-1234)

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- iii. Distress Centre 24-hour crisis line (call or text) 403-266-HELP (403-266-4357) or email [help@distresscentre.com](mailto:help@distresscentre.com).
- iv. Employee Assistance Program (FSEAP) for employees (1-800-661-8246). Phone lines are open 24/7 and on-line resources are also available at [myFSEAP | FSEAP](#)
- v. Calgary Sexual Assault Response Team (CSART) Sheldon M. Chumir Health Centre (403-955-6011)
- vi. Connect Family & Sexual Abuse Network 24-hour crisis line: 403-237-5888 or toll-free 1-877-237-5888
- vii. Calgary Communities Against Sexual Abuse (CCASA) 24-hour crisis line: 403-237-5888 or toll-free 1-877-237-5888
- viii. Alberta's Mental Health Help Line at 1-877-303-264

### 9. Definitions

- 9.1 Active Investigation – an act or process of carefully examining information stemming from a complaint, conducted with a reasonable, good faith belief that it could lead to discovering the truth.
- 9.2 Complaint – a written or spoken statement to express dissatisfaction with a particular situation or situations in which someone says that somebody has done something wrong, unfair, unacceptable, or otherwise not up to normal standards.
- 9.3 Complainant – A person who has reported, or made a complaint of, sexual or gender-based harassment or violence against them.
- 9.4 Concern – a fact or situation that would cause one to worry.
- 9.5 Disclosure – when someone discloses that they have experienced sexual or gender-based harassment or violence.
- 9.6 Gender-Based Violence – violence directed against a person because of their gender, gender expression, gender identity or perceived gender that result in harm or suffering including:
- physical;
  - psychological;
  - economic; or
  - Societal
- 9.7 Good Faith – All complaints made must be in good faith. This means they are made with the honest intent to act without taking an unfair advantage over another person or to fulfill a duty to report. This is not meant to deter complainants from coming forward but rather to address complaints made outside of the spirit and intent of the Policy. A finding that a complaint was



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not substantiated does not mean that a complaint was made in bad faith. Whether a complaint is substantiated or not is a question of evidence.

- 9.8 Incident – An event or occurrence of sexual or gender-based harassment and/or violence
- 9.9 Individual – An individual includes an individual who is a part of the St. Mary's University community including all students, employees (staff and faculty), contractors, consultants, visitors, volunteers, Members of the Board of Governors, or employees of organizations representing the University.
- 9.10 Intersectionality – Description of how our overlapping social identities relate to social structures of racism and oppression. Intersectionality merges many identity markers, including race, class, gender, sexual orientation, age, ethnicity, religion, disability, and more, to create a more truthful and complex identity. For the purposes for this Policy, the university recognizes that if an individual holds multiple marginalized identities, they may experience sexual or gender-based harassment and violence at higher rates, impacting their response to trauma. Contacts handling responses and investigations will respond from a trauma informed perspective.
- 9.11 Report/Complaint – A formal report or complaint of an incident of sexual or gender-based harassment and violence for the purposes of initiating some form of investigation or adjudication based on university-related events on or off campus.
- 9.12 Respondent – A person who has been accused of committing sexual or gender-based harassment or violence.
- 9.13 Sexual and Gender-Based Harassment – A single incident or multiple incidents over time at locations identified in section 2 of this policy, which a reasonable person would consider unsolicited and unwelcome sexual or gender-based harassment. It includes, but is not limited to, offensive or humiliating behaviour related to a person's sex or gender, as well as behaviour of a sexual nature that is known to be offensive, inappropriate, intimidating, hostile or unwelcome, or that could reasonably be thought to put sexual or gender-based conditions on a person's education or employment opportunities (an implied or expressed threat of reprisal for refusal to comply with a sexually oriented request).

Examples may include, but are not limited to, the following behaviour:

- i. persistent, unwanted conduct, behaviour, or contact;
- ii. displays of sexual, explicit, sexist, racist, or other offensive or derogatory material with the exception of when it is reasonable in a classroom setting for educational purposes;
- iii. deliberate mis-gendering or gender discrimination;
- iv. exclusion or isolation of individuals based on sex, gender, or sexual orientation;

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- v. cyberbullying (e.g. posting or sending sexually offensive or intimidating messages through social media or email)

9.14 Sexual Violence – any kind of sexual contact without mutual consent. It can include unwanted kissing, fondling, oral or anal sex, intercourse, or other forms of penetration, or any other unwanted act of a sexual nature without that person's consent. This act may be carried out by physical force, coercion, abuse of authority, or against a person who is incapable of giving valid consent, such as one who is unconscious, incapacitated, has an intellectual disability, or is below the legal age of consent.

9.15 Witness – a person who sees an event happening. Based on this policy, it would be in relation to observing sexual or gender-based harassment or violence.