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1. Preamble

This Procedures Document for Students (“Procedures Document”) is part of the University’s Sexual Violence Policy (“Policy”) and provides specific information regarding Disclosure, Interim Measures and Complaint procedures for incidents of Sexual Violence involving students. Procedures for allegations against faculty and staff can be found at: Violence Prevention in the Workplace Harassment Prevention in the Workplace or the Human Rights Policy

Defined terms in the Policy apply to this Procedures Document. In the event of a discrepancy between the Policy and the Procedures Document, the Policy will apply. Unless otherwise stated, Section numbers refer to this Procedures Document.

To receive either the Policy or this Procedures Document in an alternate format, contact: the Office of Diversity and Human Rights (“DHR”) Ext.53000 or dhrinfo@uoguelph.ca

2. Student Affairs Case Director

a. The Student Affairs Case Director (“Case Director”) is available to provide information about the processes available regarding allegations of Sexual Violence involving students. The Case Director can provide or facilitate the provision of Supports (see s. 7 of the Policy) to Survivors upon receiving a Disclosure. Students do not need to file a written complaint to receive Supports.

b. The Case Director can also provide recommendations to the University regarding Interim Measures as defined in Section 6. Contact information for the Case Director is available on the Sexual Violence Support and Information website: https://www.uoguelph.ca/sexualviolence/resources

3. Reporting Incidents of Sexual Violence

a. Incidents of Sexual Violence can be reported to the University in two ways; by making a Disclosure (Section 4) or by submitting a Complaint (Section 5).

b. A criminal complaint may be filed directly with the City of Guelph Police or through the Campus Community Police. Support with this process can be provided through the Case Director.

c. Disclosures or Complaints which raise a reasonable concern regarding broader public safety may result in information being shared with the Campus Community Police or City of Guelph Police Services.
4. Disclosure

a. Anyone can disclose information regarding Sexual Violence ("Disclosure"). The Sexual Violence Support and Information website provides a number of contacts for individuals who may be affected by Sexual Violence: https://www.uoguelph.ca/sexualviolence/resources.

b. Subject to the University’s legal obligations, a Disclosure does not normally trigger Mediation or the Formal Complaint Resolution Process. Survivors may choose not to request an investigation and have the right not to participate in any proceeding.

c. Once a Disclosure is made and regardless of whether a Complaint is submitted, the University will provide Supports (Section 7 of the Policy).

d. No actions can be taken against a Person Accused solely on the basis of a Disclosure.

5. Complaint Options

a. A Survivor or the University can file a written complaint regarding Sexual Violence or of retaliation under Section 12 of the Policy ("Complaint") through Student Housing, DHR or Campus Community Police.

b. The filing of a Complaint initiates either a Mediated Resolution Process (Section 7) or a Formal Complaint Resolution Process (Section 8). The choice of a Formal Resolution Process does not preclude the use of the Mediated Resolution Process at any time, as appropriate.

c. If the filing of the Complaint took place through Student Housing or Campus Community Police, and mediation is not requested by the parties, the Complaint together with any supporting documentation will be forwarded to DHR.

6. Interim Measures

a. Upon receipt of a Complaint, the University may impose such Interim Measures as may be appropriate. The decision to impose these Interim Measures will balance the safety and security of the Survivor and University Community Members with the rights of the Person Accused to fairness and natural justice. These Interim Measures may include, but are not limited to:

   i. separation of individuals in classes or other academic settings or University residences;
   ii. issuing “no-contact” orders;
   iii. restricting individuals from certain buildings including student residences;
   iv. interim prohibition from certain events; or
   v. interim suspension from varsity sports.

b. Interim Measures do not indicate a finding of guilt. Normally, Interim Measures imposed will continue pending the outcome of the Complaint process or unless otherwise withdrawn.
7. Mediated Resolution Process

a. Any time after a Complaint has been made, mediation may be requested by either party. Mediation involves a trained facilitator actively engaged in direct communication between the parties. Mediation is voluntary, and will only be used if the University and the parties agree. Mediation is not a fact-finding process, nor will any decision about the resolution of a Complaint be made except as agreed.

b. Mediation can occur through Student Housing, DHR or Campus Community Police. If a Mediated Resolution Process is not successful, the Complaint together with any supporting documentation will be forwarded to DHR.

c. A determination will be made by the University as to whether under the circumstances, mediation is appropriate. In doing so, the University will consider factors including but not limited to:

   i. the University's legal responsibility to provide an environment free from Sexual Violence;
   ii. whether the matter involves allegations of physical violence, threats to safety, serious emotional or physical abuse or intimidation which are not conducive to mediation;
   iii. other legal procedures that may be initiated to protect statutory rights; and
   iv. the wishes of the parties.

d. The parties to mediation will also agree before the start of the mediation that the mediator cannot be a witness in any proceeding related to the subject matter of the mediation, unless required by law.

e. Information obtained by the Survivor or the Person Accused during mediation is “off the record” and “without prejudice” and will not be introduced as evidence in any subsequent internal fact-finding or hearing process.

f. Any settlement or resolution must be mutually accepted by the parties to the mediation and approved by the University. The University will oversee the implementation of any settlement or resolution.

g. The breach of a mediated settlement or resolution may be considered a breach under this Policy.

8. Formal Complaint Resolution Process

a. The Formal Complaint Resolution Process occurs through DHR.

b. Under the Formal Complaint Resolution Process, the term “Complainant” will be used to identify the party bringing the Complaint against the Person Accused (“Respondent”).

c. The Formal Complaint Resolution Process involves documentation, investigation and if appropriate, formal proceedings. The standard to be used in the Formal Complaint Resolution Process is one of a “balance of probabilities”.

d. On receiving a Complaint, the AVP (DHR) will review the Complaint to determine if:
i. the University has jurisdiction; and
ii. there is a reasonable prospect of a finding that Sexual Violence occurred (prima facie case).

e. If the AVP (DHR) determines that the Complaint satisfies subsection d above, the AVP (DHR) will advise the parties as appropriate, and establish a fact-finding team. The fact-finding team may be established in accordance with the University’s Human Rights Policy or may also be an appropriately trained investigator(s) (“Fact-Finding Team”).
f. At any time during the Complaint Procedure, the AVP (DHR), in consultation with the Campus Community Police can impose such Interim Measures as are appropriate.
g. The Fact-Finding Team will conduct an investigation which includes among other things, interviewing the parties and relevant witnesses, and requesting and reviewing the relevant documentation. The parties may be accompanied in their interviews by a support person.
h. A report will be prepared by the Fact-Finding Team based on the investigation findings. The report will include:

   iii. the nature of the Complaint;
   iv. the nature of the evidence;
   v. findings of fact; and
   vi. one of the following recommendations:
      1. the Sexual Violence Policy has been breached and if so, any recommendations on penalty;
      2. the Sexual Violence Policy has not been breached; or
      3. the Sexual Violence Policy has not been breached and the Complaint is vexatious or has been made in bad faith.

i. A copy of the draft report will be provided to the parties on a confidential basis and shall not be shared with anyone not an agent, employee, expert witness, or representative of any of the parties. The parties have the right to comment in writing on the draft report of the Fact-Finding Team before a final report is issued. The parties must submit their comments to the Fact-Finding Team within 5 University working days.

j. From the initiation of the investigation, to the issuing to the parties of a draft report of the fact-finding team, a fact-finding process will normally be completed within 30 University working days. Requests by the Fact-Finding Team to extend any timeline established under these procedures, based on reasonable grounds, will be submitted to the AVP (DHR).
k. Based on the results of the fact-finding process and the responses to the draft report of the Fact-Finding Team, the Fact-Finding Team will prepare a final report within 5 University working days.
l. The final report will be forwarded by AVP DHR to the AVP (Student Affairs) for a decision.
m. The AVP (Student Affairs) will consider the final report and may consult with the AVP (DHR) prior to making a decision. The AVP (Student Affairs) may meet with one or both of the parties prior to rendering a decision.
n. The AVP (Student Affairs) will normally make a decision within 5 University working days of receipt of the final report or after meeting with the parties, whichever is later. The AVP (Student Affairs) will provide a written decision with reasons to the parties.
o. If there is a finding that Sexual Violence has occurred, the Respondent may appeal the decision (including penalty) in whole or in part to the Appeals Committee.

p. If the Complainant is an individual and there is a finding that the Complaint was vexatious or made in bad faith, the Complainant may appeal the decision (including penalty) in whole or in part to the Appeals Committee.

q. The grounds of appeal and the applicable process will be that found in the Appeals Committee's Rules of Procedures. Any appeal must be submitted within 15 University working days from the date of the decision. Any appeal to the Appeals Committee will proceed as a hearing de novo in accordance with the rules of procedural fairness. The appellant has the right to be represented by an advisor or legal counsel at the hearing.

r. The Complainant will be advised of the outcome of the Respondent’s appeal. The Respondent will be advised of the outcome of a Complainant’s appeal under subsection p.

9. Penalties

Upon a finding of a breach of the Sexual Violence Policy, the AVP (Student Affairs) may impose one or more of the penalties available under the Judicial Committee’s Terms of Reference, as amended from time to time. These include but are not limited to:

a. Warning
b. Non-academic Probation
c. Forbid Entry to Certain Premises
d. Restriction of Computing Privileges
e. Restitution
f. Community Service or Educational Program
g. Restricted Access (e.g. restriction of participation in non-academic events or programs)
h. Recommendation of Suspension or Expulsion