

Appendix 8.2 Sexualized Violence and Prevention and Response Policy

Processes relevant to Policy HR- 07

As per Section 5.6, individuals who experience sexualized violence have the right to determine whether, when and to whom to disclose and/or report their experience.

1) Reporting options include: Reporting to RCMP

- A formal report can be made to the RCMP in order to pursue criminal charges under the Criminal Code of Canada.
- This is the only option for pursuing an adjudication process or redress for sexual violence perpetrated by someone who is not part of the Yukon College Community.
- Survivors can access supports and accommodations through Yukon College while participating in the criminal system and remaining a full or part-time student.
- For more information related to criminal reporting; <http://www.rcmp-grc.gc.ca/en/information-sexual-assault-survivors>

2) Third Party Reporting at Women's Transition Home

- Third party reporting is available to victims of sexualized violence who are over 19 years of age and have made the informed decision to not report directly to RCMP.
- Third party reporting allows the individual to provide information regarding the assault without providing their personal information.
- More information on third party reporting is available; <https://www.womenstransitionhome.ca/3rd-party-reporting/>

3) Reporting to Yukon College

- A report can be submitted to Yukon College by an individual who is identified as a Yukon College community member as defined in 4.3
- For the period of the next 12 months September 2018- August 2019 individuals in the following departments are able to receive reports under this policy;
 - Human Resources
 - Campus Housing
 - Director of Student Infrastructure and Support
 - Manager of Safety and Security
- These individuals will be trained to respond to a report of sexualized violence and can assist survivors in understanding each of the reporting options and ensuring that the individual has all the information needed to make appropriate decisions on next steps.

Making a report to Yukon College

It is important that the person who reports an incident of sexual violence perpetrated by another Yukon College community member is heard and has access to appropriate resources and support. For the purpose of the outlined adjudication process in the policy, the person bringing forward a formal complaint will be referred to in the report as the complainant and the person accused will be referred to as the respondent.

The complainant may file a report in writing via email or letter or may request an in person meeting to make their report. The role of the person taking the report is to listen, confirm the intent to make a report, assess safety for the complainant, document the details reported and provide information related to the appropriate next steps.

Once a report is received the SVR team will be convened in order to determine next steps.

TIMELINE: Each report of sexualized violence by a complainant must be investigated before any sanctions may be considered against the respondent. The length and complexity of the process can be impacted by several factors that are specific to each case. The entire process may take six-eight months for a decision to be rendered and communicated to both parties.

The SVR Team

Once an incident is reported to the team or member of the team. The Co-Chair Directors (SIS and annually-assigned SEC Co-Chair) will construct a team of 2-6 people who will assist in the confidential management of the case. Team members will be selected as relevant to the individual case. Potential members may include but are not limited to;

- Registrar
- Manager of Safety and Security
- Mental Health Professional
- Campus Housing staff
- International staff
- Human Resources
- Dean, Director or Coordinator

The President will be informed of all officially reported incidents of sexualized violence.

The team will create a tentative time line, establish lines of communication, and appoint critical roles. These include College Liaisons as required, relevant decision makers, record keeper and team lead.

In each case two decision makers will be identified with the exception of any provisions as outlined in the Collective Agreement as it relates to a complaint that involves a union member.

Threat assessment is commonly a part of each case and will be incorporated at the Directors/Co-Chairs discretion.

Other relevant issues to be considered as it relates to each case;

- Legal requirements and counsel
- Required union involvement (for members)
- Insurance requirements
- Risk assessment
- Interim measures

The team will have regular meetings determined by the co-chairs for the purpose of information sharing, updates to timelines, follow up on tasks and consideration of process for particular case.

Any reported incident will be investigated, however in the case where Yukon College is considering undertaking an investigation without an official report the team will meet to make the determination and identify the scope of such investigation as per Section 5.8.

Once the report is submitted the SVR team will make an assessment of the appropriate next steps in responding to the complaint. The assessment will include;

- Determining whether a report or complaint has been made through any other internal or external processes,
- Determining the jurisdiction of the complaint within the institution,
- Determining whether this policy is relevant to the complaint or if the complaint should be referred for review under a different policy,
- Consult appropriate offices in the implementation of interim measures while a complaint is being investigated and while the decision on the complaint is pending

Once the SVR team has assessed the complaint and determined the necessary and relevant next steps they will inform the parties of the pending investigation.

Support for parties involved in the process

Any involved parties to a complaint will be offered access to support services. Complainants and respondents will be provided with a College Liaison throughout the investigation and decision making processes by the institution. The College Liaison will provide information related to the process, answer questions, provide regular updates and ensure access to support services. Support for employees who are respondents will be facilitated by Human Resources, consistent with any existing relevant Collective Agreement provisions. Those involved in the investigation who are members of the College community will have access to counselling services. Complainants and Respondents also have the right to identify a support person or representative of their choosing to accompany them in any meetings or proceedings related to the handling of their case. Support persons may include a friend, family member, employee, union representative, legal representative etc.

Interim measures

It may be necessary to enact temporary measures to protect the individuals and the community during an investigation and decision making process. These are identified as interim measures and are without prejudice to the ultimate outcome of the investigation.

Withdrawal of a complaint

At any time throughout the process, prior to a decision, a complainant may choose to withdraw their complaint. The withdrawal should be communicated in writing to their College Liaison. In some cases Yukon College may still pursue the complaint without the participation of the original complainant, if this occurs the individual will be informed of the decision to continue the investigation and support will continue to be available.

Guiding principles for process carried out under this policy

- a) Trauma Informed Practices

Ensuring a trauma informed response to sexualized violence at Yukon College provides the opportunity to improve the potential of recovery for those impacted by sexualized violence. Principles of trauma informed practice as outlined by the Ending Violence Association of BC will act to guide Yukon College's process and response. These principles are;

- Acknowledging the impact of trauma,
- Empowering survivor's,
- Maximizing choice related to processes,
- Restoring control to the survivor,
- Recognizing and support the survivor's need for safety,
- Treating individuals with dignity and respect,
- Moving forward at the survivor's pace,
- Respecting the survivor's right to privacy.

b) Procedural Fairness

Any process associated with the response to a formal complaint of sexualized violence is intended to be impartial and to ensure fairness for all parties involved. Principles of procedural fairness and natural justice will guide processes, management and decision making. Where applicable the process will be conducted consistent with the terms of any relevant Collective Agreement. Yukon College has a responsibility to be fair in the manner in which investigations are conducted and decisions are made.

Processes related to this policy will include the core elements of procedural fairness which include;

- An individual against who allegations are made, must know the allegations and evidence against them,
- All relevant parties must be given the opportunity to participate in an investigation prior to a decision being made,
- All relevant parties will be advised of their rights and responsibilities related to the process,
- Parties will know what to expect from the process,
- Parties will be kept informed about the process and outcome
- Parties will receive regular updates on the progress of their case, estimated timeframes and any delays related to the resolution of their case

The more serious the consequences contemplated, the higher the level of fairness. As such the College reserves the right to adjust the process to ensure procedural fairness in accordance with the facts of the individual case with notice to the complainant and the respondent.

c) Timeliness of the process

Participating in a formal complaint process can be challenging. For those who undertake this process it is often a precursor to healing and possible closure. Therefore, every attempt will be made to expedite a timely process without compromising the inclusion of best practices and appropriate procedural fairness for all parties.

d) Privacy

The College will strive to balance confidentiality with its legal responsibility to provide a safe campus environment. The College protects personal information and handles records in accordance with its policies, the Access to Information and Protection of Privacy Act, and the provisions of applicable employee Collective Agreements.

The College is committed to managing cases with the strictest of confidence. Consideration of privacy will be included in determining a relevant SVR team and in guiding what information is shared with members. Those individuals who are involved in addressing or investigating the case must keep the matter confidential, except as outlined in this policy where employees require information to carry out their authorized duties. These include but not limited to; conducting an investigation and making or implementing a decision or interim measure.

Respondents and witnesses are asked to keep the detail of any case private, outside of their circle of support in effort to preserve the integrity of the investigation and decision-making process.

There are circumstances where a staff member may be required to disclose information internally or with external organizations in order to address safety concerns or satisfy legal reporting requirements, such as;

- An individual is at risk of life-threatening self-harm,
- An individual is at risk of harming others,
- There is a risk to the safety of the College and/or broader community,
- Disclosure is required by Law,
- An individual is under the age of 19 as legally required in the Yukon Child and Family Services Act
- Evidence of the disclosed incident of sexual violence is available in the public realm (eg. Social media)

If information is disclosed to an external organization the minimum amount of information to meet the legal requirement will be disclosed. If any external disclosure is required the relevant parties will be fully informed and offered support throughout the process.

INVESTIGATIONS

a) Investigation Process

The SVR team will coordinate the investigation and all related processes. The SVR team will appoint an impartial investigator who has knowledge, training and experience in sexualized violence investigations and related issues. The investigator will be familiar with the policy and operate within the principles and processes identified. The investigator may be internal or external to the College. Where the complainant or respondent reasonably believe that the investigator may have a conflict of interest they may request an alternative investigator. The SVR team will consider their concerns to determine whether or not to assign an alternative investigator.

Once the investigator has been appointed all parties will receive notification and a meeting request will be sent for each party to meet with their College Liaison.

The Liaisons will meet separately with the complainant and respondent. Depending on the case a Liaison may be assigned to the witnesses. In the initial meetings each party will be informed;

- Of their rights in the investigation and decision making process,
- Of the process and answer any related questions,
- Of the details of interim measures if applicable,
- Of the name and contact information of the investigator,

Each party will be provided with;

- A written summary of the complaint,
- Relevant support services,
- Links to any College related process and policies

Any individual has the right to decline participation in an investigation at any time throughout the process. The investigation will continue without that individual's participation.

b) Role of investigator

The SVR team will help determine the scope of the investigation for each case. The investigator will work with the team to develop a plan identifying the issues of the case, who will be interviewed, which questions will be posed and which documents will be requested for review. The investigator is required to document all the interviews, including interviews with the complaint respondent and any witnesses.

c) Conducting an investigation

After reviewing the written account of the complaint and any relevant documentation, the investigator will contact the complainant and the respondent to arrange separate interview times. At the time of the initial contact the investigator will explain to all parties the investigation process and their role as investigator.

The investigator will conduct the interviews and may need to meet with each party more than once during the course of the investigation. The complainant and the respondent will have the opportunity to provide the investigator with information, documents, names of witnesses and other submissions or evidence that they believe are relevant to the complaint.

The SVR team will work with investigator to complete an investigation in a timely and comprehensive manner. Depending on the complexity of the case and or the availability of parties and witnesses the investigation could take several months. Timelines will be reviewed regularly and all relevant parties will be provided with any information related to adjustments or delays in the investigation.

d) Completion of the investigation

The investigator will complete a final report for the College. The timeframe of this process will be determined by the scope of the investigation and guided by the principles in the policy.

The final report will go to the co-chairs who will provide the report to the decision makers.

The College Liaisons will notify the complainant and the respondent by email within 3 business days of receipt of the final report from the investigator.

Decision making process

a) Identification of the decision maker

The SVR team will identify appropriate and relevant decision makers for each case where the decision maker is not identified in an applicable Collective Agreement and will be approved by the President. The assigned College Liaisons will notify the complainant and the respondent of the identified decision makers and where either party reasonably believes that the individuals may have a conflict of interest they may request alternative decision makers. The SVR team will consider their concerns and determine whether or not alternative decision makers will be assigned.

b) Rendering of the decision

The decision makers will review the final report from the investigator and may also request an opportunity to meet with and ask any questions of the investigator, the complainant and the respondent and or any witnesses separately before rendering a decision. Any in person meetings will be transcribed so as to document any new evidence presented that does not appear in the investigators report. If in the course of these meetings new information is presented by any party, the complainant and respondent will be given the opportunity to respond or questions the new information in person or in writing before the decision is rendered.

Within 10 business days of reviewing the investigators report and completing all requested meetings with parties involved and reviewing all additional written submission or questions submitted by either party, the decision makers will render a decision and where applicable assign an appropriate sanction/remedy.

The final decision prepared by the decision makers will indicate whether there has been a breach of policy or not. If it has been determined that the policy has been breached, the decision maker may consider the following when determining an appropriate sanction;

- The sanction or remedy sought by the complainant,
- The principle of progressive discipline,
- The Colleges role as an educational institution ,
- The requirements under any relevant Collective Agreement,
- The nature and severity of the incident,
- Any other relevant factors

Outcomes of reported Sexualized Violence

Outcomes are outlined in 5.10 of the policy and will be reflective of the findings of the investigation and the status of the respondent.

Monitoring compliance with sanctions or outcomes may involve multiple departments within the institution (eg. Registrar, Security or Housing).

The decision makers will provide both the complainant and the respondent with a summary of the investigation results, their decision and any applicable sanctions.

Notice of a complete investigation and any additional appropriate information may be provided to witnesses or other relevant parties.

Appeal process

The complainant or respondent involved in a formal complaint under this policy have the right to appeal the decision or imposed sanction.

The decision letter will identify the individual responsible for an appeal in the case and the process for accessing that option.

Those wishing to appeal a decision or sanction will be required to submit a written request to the appropriate individual within 5 business days of communication of the decision.

Appeals will be considered on the following grounds:

- There is new information that could not be reasonably presented earlier potentially rendering the original decision unreasonable in light of the new information presented,
- An alternative sanction is being suggested, or
- There is clear evidence of lack of procedural fairness and/or bias or unfair treatment in the process.

When an individual requesting an appeal is a union member, the right to appeal is determined within the applicable processes identified within the Collective Agreement.

Appeal review process

Once an appeal is filed by one party, other relevant parties to the case will be notified that an appeal has been submitted.

In deciding on the appeal, the individual responsible for the appeal will review the investigation file, the original findings and sanctions determined by the original decision makers and any other relevant documents or information. The individual responsible for the appeal may also interview any parties included in the original investigation or related to any new information brought forward. They will communicate their review in writing to all parties within 15 business days of the commencement of the review.

The decision made through the appeal process is final with respect to the options available within the College. Where applicable any party not satisfied with the decision may pursue external avenues for redress.

Developed in consultation with the policies of Ryerson University, University of Manitoba, and University of British Columbia. Along with the Ending Violence Association of BC; Campus Sexual Violence: Guidelines for a Comprehensive Response