

Section:	Sexual Violence Policy	Issuing Authority	University Executive Team
Responsibility	Director, Student Affairs	Effective Date	September 15, 2016
Subject	Sexual Violence Prevention Response & Support	Authorized	VP, Finance & Operations

### **I. Purpose**

The purpose of this policy is to make clear Cape Breton University's commitment to addressing sexual violence in its community through support, awareness, education, training and prevention programs, and the appropriate handling of reports/complaints of incidents of sexual violence.

### **II. Scope**

This policy confirms Cape Breton University's position on sexual violence and the guidelines to be followed in the case of disclosure or complaint from any student, for any incident occurring on or off campus by a member of the University community.

### **III. Background**

This policy has been established because sexual violence is a serious problem on university campuses and in our society. Acts of sexual violence have a significant impact on the complainant, their friends and family members, and on those who work closely with the complainant as supporters, advocates and educators. Sexual violence is a complex issue that needs attention and intervention throughout our society and within our institutions, especially given the prevalence of sexual assault on college and university campuses. It is the most underreported criminal activity and we know through many sources that the number of disclosed or reported incidents on campuses do not reflect the true number of assaults faced by members of our community.

### **IV. Policy**

Cape Breton University is committed to creating an environment that is free from sexual violence (actual or threatened), abuse, aggression and harassment for our faculty, staff, students and visitors.

### **V. Guidelines**

This policy is intended to outline commitments to raise awareness and educate on sexual violence, to prevent sexual violence, to reduce the risk of sexual violence incidents, to promote a consent culture, and to respond to the needs in our community for support and empowerment.

## Sexual Violence Policy & Guidelines

### Policy

Sexual violence is unacceptable and will not be tolerated by Cape Breton University. The University's formal procedure for responding to incidents of sexual violence is articulated in this Policy. Students who come forward with a disclosure of having experienced sexual violence will be respected in their choices as to how to proceed. Students will be entitled to decide whether they wish to access available services, which services they believe will be most beneficial and whether or not to report to police. Furthermore, the University will engage in public education and prevention activities, including specialized training of relevant campus leaders.

Individuals within the University community who are confirmed to have committed an act of sexual violence will be held accountable by the University, and will be subject to disciplinary action up to and including expulsion or termination. Determination of any applicable disciplinary action to be exercised where students are accused of committing acts of sexual violence shall be administered in accordance with the Code of Student Conduct.

### Purpose

Cape Breton University is committed to providing a safe and supportive community for all students. The *Sexual Assault Policy & Guidelines* are intended to provide a unified approach to primarily prevent and, where it occurs, to address incidents of sexual violence. Its purpose is to:

- Assist those who have experienced sexual violence by providing detailed information and support, including provision of and/or referral to counselling and medical care, and appropriate academic and other accommodation;
- Ensuring that those who disclose that they have been sexually assaulted are believed, and that their right to dignity and respect is protected throughout the process of disclosure, investigation and institutional response;
- Treating individuals who disclose sexual violence with compassion recognizing that they are the final decision-makers about their own best interests;
- Ensuring that on-campus (internal) investigation procedures are available in the case of sexual violence, even when the individual chooses not to make a report to the police;
- Engaging in appropriate procedures for investigation and adjudication of a complaint which are in accordance with the University's policies and protocols, and that ensure fairness and due process;
- Ensuring coordination and communication among the various departments who are most likely to be involved in the response to sexual violence on campus;
- Engaging in public education and prevention activities;

- Providing information to the University community about sexual violence on campus;
- Providing appropriate education and training to the campus community about responding to the disclosure of sexual violence;
- Contributing to the creation of a campus atmosphere in which sexual violence is not tolerated; and,
- Monitoring and updating our policies and protocols to ensure that they remain effective and in line with other existing policies and best practices.

### **Scope**

This policy confirms Cape Breton University's position on sexual violence and the protocols to be followed in the case of a disclosure or complaint from any student, for any incident occurring on or off campus by a member of the University community. The University reserves the right to take necessary and appropriate action to protect the safety and welfare of the campus community and the learning environment. This may include taking necessary and appropriate action in cases where a student is accused of serious conduct, and there is a clear nexus to the campus community regardless of where the conduct occurred or is alleged to have occurred.

### **Definitions**

*"Sexual misconduct"* includes the following:

- (a) Sexual assault;
- (b) Sexual exploitation;
- (c) Sexual harassment;
- (d) Stalking;
- (e) Indecent exposure;
- (f) Voyeurism;
- (g) The distribution of a sexually explicit photograph or video of a person to one or more persons other than the person in the photograph or video without the consent of the person in the photograph or video and with the intent to distress the person in the photograph or video;
- (h) The attempt to commit an act of sexual misconduct;
- (i) The threat to commit an act of sexual misconduct;

*Student:* in relation to a post-secondary institution, means a person who is enrolled at Cape Breton University.

*Sexual Violence:* means any unwanted act, physical, verbal, or psychological, carried out through sexual means or by targeting sexuality. This violence takes different forms including sexual assault, sexual abuse, sexual harassment, and stalking, indecent or sexualized exposure, degrading sexual imagery, voyeurism, cyber harassment, and trafficking and sexual exploitation. Neither a formal criminal charges nor a human rights complaint is necessary for this definition to operate for

the purposes of this Policy. For greater certainty, sexual violence can include, but is not limited to:

*Sexual assault:* means any type of unwanted sexual act committed by an individual against another that violates the sexual integrity of the individual to whom it is directed. Sexual assault is characterized by a broad range of behaviours that involve the use of force, threats, or control towards a person, which makes that person feel uncomfortable, distressed, frightened, and/or threatened. It is carried out in circumstances in which the person has not freely agreed, consented, or is incapable of consenting to the act.

*Substance-facilitated sexual assault:* refers to the use of alcohol and/or drugs to intentionally sedate or incapacitate another individual for the purpose of committing a sexual assault.

*Sexual harassment:* Sexual harassment is defined in the *Human Rights Act* of Nova Scotia and under this Policy as: to “engage in vexatious comment or conduct of a sexual nature that is known or ought to reasonably known to be unwelcome.” Sexual harassment often occurs in environments in which sexist or homophobic jokes and materials have been allowed, and may involve the use of social media to bring about this unwanted attention.

*Sexual Cyber harassment/cyber stalking:* Often used interchangeably, cyber harassment and cyber stalking are defined as repeated, unsolicited, threatening behaviour of a sexual nature by a person or group using cell phone or Internet technology with the intent to bully, harass, and intimidate others. Such harassment can take place in any electronic environment where communication with others is possible, such as on social networking sites, on message boards, in chat rooms, through text messages, through email, etc.

*Coercion:* When someone uses manipulation tactics including threats, bribes, guilt, etc. to persuade another person to engage in sexual activity.

*Disclosure:* For the purposes of this document, a disclosure involves a student choosing to tell anyone about their experience of sexual violence (different from *complaint*).

*Complaint:* A *formal* report that is made to authorities, such as the Director of Student Services, Human Resources, Human Rights Officer, CBU Campus Security or police (different from *disclosure*).

*Complainant:* Any person who files a report of sexual violence or sexual harassment or other prohibited behaviour or retaliation or any person who has been the alleged subject of such prohibited conduct or retaliation.

*Respondent:* for purposes of this Policy, an individual accused of prohibited conduct.

*CBU Crisis Response Team:* consists of a Counsellor, Human Rights Advisor, Registered Nurse and the Manager of Safety & Security.

Consent is the voluntary agreement to engage in the sexual activity(s) in question and to continue to engage in the activity. If someone expresses, by words or conduct, a lack of agreement to engage in the activity or to continue to engage in the activity, there is no consent. Consenting to one kind of sexual activity does not mean that consent is given for another sexual activity, and consent only applies to each specific instance of sexual activity.

*Consent:*

- Cannot be assumed or implied
- Cannot be obtained if the agreement is expressed by the words or conduct of a person other than the person engaging in the activity
- Cannot be obtained if the person involved is incapable of consenting to the activity, such as when they are affected by alcohol or drugs, or if they are unconscious
- Cannot be obtained through the application of force, as the result of threats or fear of the application of force, by fraud, or by an exercise of authority
- Cannot be obtained if the perpetrator induces the survivor to engage in the activity by abusing a position of trust, power, or authority
- Can be revoked at any time

*Note: consent as it relates to sexual assault is further defined in the Criminal Code of Canada sections 265(3) and 273.1.*

### **Prevention and Education**

Cape Breton University is committed to ensuring education and awareness of sexual violence is embedded into the knowledge framework of the University. Similarly, Cape Breton University will ensure that information about services available on campus to support those affected by sexual violence is well communicated.

Best practices in sexual violence prevention and education indicate that successful education and awareness efforts:

- Are peer-led;
- Leverage social media;
- Include interactive activities;
- Involve many members of the campus community (including faculty, staff, students, and administration); and
- Are tailored for specific groups.

Prevention and education activities will include, but are not limited to:

- Engaging new students through Welcome Week activities designed to communicate the expectations of our campus community and introduce relevant policies, reporting procedures, and support services available;
- Training student leaders (Welcome Week Leaders, CBUSU Executives, Residence Assistants, House Committee Members, etc.) in bystander intervention strategies;
- Providing specialized sexual assault crisis intervention training to key persons who may be the most likely to receive disclosures of sexual violence;
- Offering bystander intervention training to the broader campus community including staff, faculty and students;
- Leveraging print and social media campaigns to increase public education about consent, resources and supports available to those affected by sexual violence;
- Engage students in community-based anti-violence and awareness events (i.e. Take Back the Night, Teal Ribbon Campaign, Walk a Mile in Her Shoes); and
- Collaborating with community services to develop and deliver comprehensive and integrated prevention and education programming.

### **Confidentiality**

Confidentiality is particularly important to those who have disclosed sexual violence. The confidentiality of all persons involved in a report of sexual violence must be strictly observed, and the University does its best to respect the confidentiality of all persons, including the complainant, respondent, and witnesses. However, confidentiality cannot be assured in the following circumstances:

- An individual is at imminent risk of self-harm;
- An individual is at imminent risk of harming another; and/or
- There are reasonable grounds to believe that others in the University or wider community may be at risk of harm.

In such circumstances, information would only be shared with necessary services to prevent harm, and the name of the victim would not be released to the public.

Where the University becomes aware of an allegation of sexual violence by a member of the campus community against another member of the campus community, the University may also 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. In such cases, certain University administrators will be informed about the reported incident on a "need to know" and confidential basis, but not necessarily of the identities of the persons involved.

**Academic Accommodations**

Students requiring academic accommodations (e.g., extensions on assignments, deferrals of exams, dropping classes, continuing studies from home) will be supported by the Director, Student Affairs in accordance with the university standards and procedures for requesting and granting accommodations.

**Maintaining Statistics**

The Human Rights Officer will maintain annual statistics, without identifying information, on disclosed and reported incidents of sexual violence on campus, in accordance with legislative requirements. Any external reporting of statistics will be in accordance with provincial regulations.

**Policy Review**

This Sexual Violence Policy & Guidelines are consistent with current best practices across Canada. To maintain the policy's currency and relevance, the content will be re-visited and updated every three years or when relevant social, resource, or legal changes otherwise warrant any updates.

## **Reporting, Responding & Support**

### **Reporting Options**

#### **Reporting Sexual Violence**

Anyone who has witnessed or experienced sexual violence has options for filing a report or complaint in response to an incident of sexual violence and may choose to pursue formal or informal reporting options. Campus Security is best suited as the first point of contact for all CBU students seeking information about options for reporting sexual violence or seeking support. Campus Security will connect you with a member of the CBU Crisis Response Team who can provide the information needed to make decisions with respect to reporting options.

Anyone who experiences or witnesses sexual violence may pursue any of the following reporting options:

#### *a) Criminal Reporting Option:*

- Individuals may report their allegations through the criminal justice system by contacting the Cape Breton Regional Police Service. If an individual chooses this route, Campus Security can facilitate making a report to the police.

#### *b) Non-Criminal, On-Campus Reporting Options:*

- Reports involving allegations against students and student groups can be made through Student Services under the both the University's [Respectful Campus Policy](#) and [Code of Student Conduct](#).
- Reports involving allegations against any member of the University community can be made through Human Resources under the Respectful Campus Policy.
- Reports involving allegations against any university employee can be made through the University's [Respectful Campus Policy](#).

Anyone who has experienced or witnessed sexual violence may pursue more than one reporting option simultaneously.

#### **Disclosure without Reporting**

If a student has experienced sexual violence and does not want to report the incident through the criminal justice system, or the university's non-criminal on-campus options, they have the option of disclosing their experience to a professional counsellor, the Human Rights Advisor, and/or Campus Security to receive personal support and academic accommodations that may be needed as a consequence of the impacts.

#### **Support for the Respondent**

If you have been accused of sexual misconduct, this may be an overwhelming time. The investigation process can be stressful. Therefore, Cape Breton University provides a number of support resources that can help you understand the investigation process and provide support. If CBU conducts an investigation, you will have the opportunity to

provide full disclosure. Also, it is important for you to keep in mind that any act of retaliation against any person for making a report or participating in an investigation is strictly prohibited.

### **Guidelines for Responding to a Report of Sexual Violence**

#### **Immediate Sexual Assault (refer to Chart A)**

- When appropriate, the first person to become aware of an incident of immediate sexual assault (i.e.: assault having occurred within the past 72 hours) is to encourage the complainant to seek medical attention if required. To ensure the safety of complainant and the campus community contact Campus Security at (902)578-2316 and / or 911. If the latter, advise Campus Security that 911 has been called.

Campus Security will:

- Assess the medical condition of the complainant and call 911 if immediate/emergency medical assistance is required.
- Assess the situation for potential safety risk to the complainant, themselves and the community.
- Preserve physical evidence.
- Provide appropriate support and resource information to the victim.
- Provide information about medical, counseling and agency support i.e. Cape Breton University Personal Counselling Services, Transition House 24 hour/7 days Crisis & Support Line.
- Contact the Manager, Safety & Security or designate.

The Manager, Safety & Security or designate will:

- Coordinate the security response and address any safety issues that arise.
- If police are called, confer with the Cape Breton Regional Police Service when they arrive on campus.
- Coordinate follow-up procedures when appropriate with students, faculty and staff who may have been involved and have them complete incident reports where applicable.
- Where appropriate, consult with Campus Security to ensure that a security bulletin is issued to the entire University community, in consultation with the Director of Marketing & Communications.

### **Non-Immediate Sexual Assault (refer to Chart B)**

The first person to become aware of a non-immediate (i.e.: assault having occurred beyond the past 72 hours) incident of sexual assault will encourage the complainant to seek medical assistance if required.

## **Resources & Support**

### **Internal Resources**

1. Campus Security (902) 578-2316  
24 hours/day 7 days/week
2. CBU Personal Counselling Services (902) 563-1873  
Monday to Friday 8am to 4pm
3. Max Bell Health Centre (902)563-1359 & (902)563-1433  
September to June/Monday to Friday 8:30am to 4:00pm
4. Manager, Safety & Security (902)565-5328
5. Human Rights Advisor (902)574-2350
6. [Cape Breton University Student's Union](#) (902)563-1192

### **External Resources**

1. [Cape Breton Transition House Crisis/Support Line](#)  
24 hours/day 7 days week  
(902)539-2945 or toll free line 1-800-563-2945
2. [Willow House Outreach Sexual Assault Program](#)  
24 hours/day 7 days/week  
Support Line (902)270-5167 or 1-844-314-5167
3. [Every Women's Centre](#)  
(902)567-1212
4. Cape Breton Regional Police Service  
(902) 563-5151