

Nipissing University

Policy Category: Campus Conduct

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Nipissing University

Sexual Violence Prevention, Support and Response Policy

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1. Introduction*

- 1.1. Nipissing University is committed to creating and maintaining a safe educational and working environment for its students, faculty, staff and visitors to campus. The University is not only dedicated to ensuring a safe and respectful environment, but also providing prevention, education, and response efforts to address sexual violence for the campus community. Sexual violence will not be tolerated, and the University is committed to prompt and supportive response to survivors who disclose sexual violence. Additionally, the University is committed to procedural fairness and fair process for all parties involved in a formal report.
- 1.2. Nipissing University is aware that sexual violence can be experienced by people of all ages, genders and sexualities. The University recognizes the intersection of sexual violence with both discrimination and harassment, on grounds including but not limited to the grounds set out in the Ontario *Human Rights Code*.
- 1.3. Nipissing University recognizes that individuals who have experienced sexual violence may also experience emotional, academic, social and environmental challenges and that survivors can experience barriers to disclosing, reporting and seeking support and healing. The University will ensure that all incidents of sexual violence that are the subject of a formal report under this Policy are investigated in a fair and impartial manner, and that the appropriate supportive services are put in place to help survivors whether or not a formal report is made.

* Relevant terms are defined in section 5 of this Policy

2. Purpose

- 2.1. The purpose of this Policy is to outline the University's commitment to students in addressing sexual violence in its community through:
 - a) Awareness, education, and prevention training;
 - b) Support and response for student survivors of sexual violence;
 - c) Responsive, coordinated, and fair procedures in response to disclosures and formal reports of sexual violence.

3. Scope

- 3.1. This Policy outlines response to disclosure and reporting for students of Nipissing University. Response to disclosures and formal reports made by faculty or staff are reported under Nipissing University's Respect in the Workplace Harassment Prevention Policy or the Workplace Violence Prevention Policy, reported to Human Resources.

- 3.2.** This Policy and its associated procedures do not overrule or replace the criminal justice system or other relevant legislation. All persons have the right to pursue legal proceedings whether or not they choose to proceed with a formal report to the University under this Policy. This Policy does not prevent survivors from seeking recourse via criminal or civil proceedings and in some cases there may be compelling reasons to do so. Legal proceedings and findings with regard to sexual violence do not limit or prohibit the ability of the University to act under this Policy, associate procedures, or related policies and procedures of the institution. However, if requested by law enforcement officials to suspend proceedings under this Policy pending the outcome of a criminal investigation, the University may be obliged to do so.
- 3.3.** This Policy pertains to sexual violence that may have been perpetrated on a student by any member of the Nipissing University Community, including all students, employees, faculty of all campuses, contractors, suppliers of services, volunteers, visitors, and other third parties affiliated with the University related to initiatives, research, or other contractual agreements.

4. Commitments

- 4.1.** Nipissing University is a diverse educational community that recognizes the importance of ensuring that efforts focused towards eliminating sexual violence need to be grounded in an appreciation that a survivor's experience is influenced by a multitude of factors, such as: sex, race, ethnicity, ancestry, language, faith, age, ability, socioeconomic status, sexual orientation and gender identity. The University also acknowledges that some acts of sexual violence are also acts of racism, ableism, sexism, transphobia, or homophobic or gender-based bullying.
- 4.2.** Nipissing University realizes the integral role that the institution has in addressing sexual violence, supporting survivors, and raising public awareness about sexual violence. The University is committed to creating an environment where it is understood by all that sexual violence is unacceptable, and will not be tolerated in any form. The University is dedicated to implementing ongoing sexual violence awareness, education, and prevention initiatives on campus, including topics such as consent, and supporting survivors. The University will support these critical initiatives through the creation of an ongoing Sexual Violence Education and Support Committee, which will advise on campus initiatives relating to sexual violence.
- 4.3.** Nipissing University will ensure, to the best of its ability that appropriate procedures are in place to respond to disclosures and reports of sexual violence. Supports and services are always available to student survivors whether a formal report is filed or not. Pathways to disclosure and reporting are outlined in section 8.3 of this Policy. Additionally, the University will support survivors who are members of the University Community, regardless of where or when the violence occurred. All members of the University Community should expect to receive support through the appropriate office if they have experienced sexual violence. Detailed information about on and off campus supports are provided on a dedicated website: www.nipissingu.ca/nuperspective

- 4.4. Nipissing University is committed to the provision of fair process for all parties and one that respects due process and procedural fairness. Any student member of the University Community who is found to have committed an act of sexual violence shall be held accountable, under the University's Code of Student Rights and Responsibilities, to the process outlined in this Policy and will be subject to outcomes, up to and including expulsion from academic enrollment and/or termination of student employment.
- 4.5. Nipissing University is committed to responding to student disclosures and formal reports of sexual violence fairly and expeditiously.

5. Definitions

The following definitions are applicable in the interpretation of this Policy, as well as to the University Community in developing an understanding of the problem of sexual violence.

Ableism: As outlined by the Ontario Human Rights Commission ableism is a belief system, analogous to racism, sexism or ageism, that sees persons with disabilities as being less worthy of respect and consideration, less able to contribute and participate, or of less inherent value than others. Ableism may be conscious or unconscious, and may be embedded in institutions, systems or the broader culture of a society. It can limit the opportunities of persons with disabilities and reduce their inclusion in the life of their communities.

Accommodations: Accommodations are designed to meet the demonstrated needs of a student in relation to an incident of sexual violence. Accommodations may include supports in the classroom and other academic environments and with respect to evaluation procedures, and/or modifications to housing and/or employment settings.

Coercion: The use of emotional manipulation, blackmail, threats, harassment, threats to family or friends, or the promise of rewards or special treatment in order to persuade someone to do something that they do not wish to do. This includes but is not limited to being forced to watch a sexual act or perform sexual acts.

Complainant: Refers to a person who is making a formal report of sexual violence, to the University, under this Policy.

Consent: The active, direct, expressed, voluntary and conscious agreement between adults to engage in sexual activity. These elements of consent must be present, even if alcohol or drugs have been consumed. Furthermore, consent is not implied and cannot be assumed. The following points are important when understanding consent:

- Someone who is incapacitated in any way (i.e., due to use of drugs or alcohol, being asleep or unconscious, or a disability that prevents an individual from giving consent) cannot consent.
- Past consent does not imply future consent.
- Being in a relationship with an individual does not constitute consent.

- Silence or absence of resistance does not imply consent.
- Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another person.
- Consent is voluntary and can be withdrawn at any time.
- Consent cannot be obtained through coercion.
- Consent cannot be obtained if the perpetrator abuses a position of trust, power, or authority.

Criminal (Police) Report: The lodging of a formal complaint to police officials against another person for perpetrating sexual violence.

Disclosure: When a survivor discusses an experience of sexual violence to staff or faculty of the University. This is not the same as a formal report or complaint, as outlined below, which activates the formal report process described in sections 9 and 10 below.

Force: The use of force includes emotional coercion, psychological or physical force, or the use of manipulation to coerce a person into non-consensual sexual acts. This includes the use of threats to force a person to comply, such as threatening to hurt the person or their family, or loved ones (i.e. pets) through the use of other intimidation tactics.

Formal Report: The lodging of a complaint with the University for the purpose of initiating some form of investigation against another member of the University Community for allegedly perpetrating sexual violence.

Homophobic and Gender-Based Bullying: As described by the Ontario Human Rights Commission, sexual harassment includes bullying people because of their sex, gender identity, gender expression, sexuality or sexual orientation. It can include name-calling, jokes, and isolating a person because they do not fit what other people want them to be. It is different from other kinds of bullying because the harassment focuses on a person's sexuality, sexual characteristics, sexual reputation, or gender and sexual stereotypes.

Homophobic and gender-based bullying can affect anyone. In many cases, targets are people who:

- Say they are gay, lesbian, bisexual or transgender
- Are thought by others to be gay, lesbian, bisexual or transgender
- Don't conform to male and female stereotypes
- Have same-sex parents or caregivers
- Have friends that are, or are thought to be, gay, lesbian, bisexual or transgender.

Anti-gay and homophobic comments and behaviour are discrimination, even if the target does not identify as lesbian, gay, bisexual, transgender, queer (LGBTQ). Some cases of homophobic bullying are considered hate crimes.

Incapacitation: Is a state in which an individual lacks the ability to give consent. Sexual activity with a person who one knows to be, or based on circumstances should reasonably have been known to be, mentally or physically incapacitated (may it be by drugs or alcohol,

sleep, unconsciousness or a blackout, or disability) constitutes sexual assault. The initiator of sexual activity must always err on the side of assuming an individual to be incapacitated, rather than risk committing sexual assault. Evidence of incapacitation may include:

- Slurred speech
- Bloodshot eyes
- The smell of alcohol on a person's breath
- Shakiness
- Vomiting
- Disorientation
- Uncharacteristic or unusual behavior
- Being asleep or unconscious

Nipissing University Community: Also referred to as the University Community, means all students, employees, faculty, contractors, suppliers of services, volunteers, visitors, and any other third parties affiliated with the University related to initiatives, research, or other contractual agreements.

No-Contact Undertaking: Is an example of an Interim Measure and means an arrangement whereby two or more parties are to refrain from contacting one another based on mutually specified conditions.

Racism: As described by the Ontario Human Rights Commission racism is the conscious or unconscious belief that one racialized group is inherently superior to others. Racism can be openly displayed in racial jokes, slurs or hate crimes.

Rape Culture: A culture in which dominant ideas, social practices, media images and societal institutions implicitly or explicitly condone sexual assault by normalizing or trivializing sexual violence and by blaming survivors for the abuse they have experienced.

Respondent: Refers to the person, or persons, against whom a formal report has been filed with the University under this Policy.

Sexual Assault: Sexual assault is any type of unwanted sexual act done by one or more persons to another that violates the sexual integrity of that individual. Sexual assault is characterized by a broad range of behaviours that involve the use of force, threats towards, or control of a person, which makes that person feel uncomfortable, distressed, frightened, or threatened, and are carried out in circumstances in which the person has not freely agreed, consented to, or is incapable of granting consent.

Sexual Harassment: As described by the Ontario Human Rights Commission sexual harassment means engaging in a course of vexatious comment or conduct against another person in the Nipissing University Community because of sex, sexual orientation, gender identity or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome. This definition also includes making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement to the worker and the person knows or ought

reasonably to know that the solicitation or advance is unwelcome. Sexual harassment may include but is not limited to:

- Sexual solicitation and advances (for example, demanding hugs, invading personal space, unnecessary physical contact);
- A poisoned environment (for example, pornographic images in a public, social or work space or exposure to a learning or working environment involving periodic or frequent sexualized comment or conduct);
- Gender-based harassment (for example, targeting someone based on their gender or for not adhering to binary or stereotypical gender roles);
- Sexual assault

Sexual Violence: Any violence, physical or psychological, carried out through sexual means, or by targeting sexuality. This includes, but is not limited to: sexual assault, sexual harassment, stalking, indecent exposure, voyeurism, degrading sexual imagery, distribution of sexual images or video without consent and cyber harassment or cyberstalking of a sexual nature.

Stalking: Stalking includes physical and/or cyber harassment and behaviours that occur on one or more occasions and which instill fear in an individual and/or threaten the individual's safety or mental health. Stalking may also include threats to a person's friends or family.

Survivor: A student who has experienced sexual violence. It is important to respect the right of the individual student to identify their preferred terminology (i.e., survivor, victim, complainant).

Transphobia: As described by the Ontario Human Rights Commission transphobia is the aversion to, fear or hatred of Trans* people and communities. Like other prejudices, it is based on stereotypes that are used to justify discrimination harassment and violence towards Trans* people.

6. Education, Support and Response

- 6.1. The University provides support to students of the University Community who have experienced sexual violence and to those who may receive a disclosure or report of an incident of sexual violence.
- 6.2. The University provides sexual violence education and prevention initiatives for all members of the University Community. This includes, but is not limited to: bystander intervention training, training on this Policy and programs and events that raise awareness about sexual violence and personal safety. These trainings offer opportunities to share available supports and resources with those who attend.
- 6.3. Violence prevention and awareness training will be offered to student leaders on campus. This training supports Nipissing University's commitment to create an

environment where sexual violence is recognized as unacceptable and is not tolerated, as outlined in section 4.2 of this Policy.

- 6.4. The University provides training on this Policy to staff and faculty members of the University Community who are likely to receive a disclosure or report. This training is provided in order that these members offer support with dignity and compassion, grounded in an understanding that a survivor's experience is influenced by multiple factors, such as: sex, race, ethnicity, culture, language, faith, age, ability, economic status, sexual orientation and gender identity.
- 6.5. The University provides support to members of the University Community who have had an allegation of sexual violence made against them. Information and services for student respondents are offered by the Student Intervention Specialist in Student Development and Services.
- 6.6. Sexual violence prevention and education initiatives are supported by Student Development and Services with a mandate to provide prevention, education as well as awareness programming to the University Community. Additionally, this mandate includes providing support and response to survivors.

7. Confidentiality

- 7.1. Confidentiality is of paramount importance in response to disclosures of sexual violence. The privacy of all individuals involved in a disclosure or report of sexual violence must be respected, and the University will endeavour to maintain the confidentiality of the survivor, respondent and any witnesses, subject to the limitations set out in this section. If the survivor discloses to a University Official, the Official should be aware of legal requirements with respect to information and privacy (e.g. under the *Freedom of Information and Protection of Privacy Act* (FIPPA) and *Personal Health Information Protection Act* (PHIPA)), including who the Official is required to share information with on a need-to-know basis, or under supervisory circumstances.
- 7.2. The following circumstances constitute situations wherein there are limits to confidentiality and the University may be required to provide some disclosure of information provided by a survivor, respondent, or witness:
 - a) An individual is at serious risk of harming themselves;
 - b) An individual is at serious risk of harming others;
 - c) There are reasonable grounds to believe that others at the University or wider community may be at risk of harm;
 - d) Reporting is required by law or professional practice (e.g., sexual violence towards a minor, sexual violence by a regulated health care professional);
 - e) In the event a formal report is made, information regarding the survivor's allegations, the respondent's response, and information provided by the

witnesses may have to be shared with the complainant or respondent by the investigator in order to ensure a full and fair investigation can be conducted.

- 7.3. Instances of limits of confidentiality have been listed above, however, survivors should be aware that there are other instances where information may be shared among staff and faculty in the University in order to facilitate requests for accommodations, support and/or official Reports.
- 7.4. In cases where information has been shared among staff and faculty in the University, a survivor will be kept informed about which individuals have been notified and what information they have been given.
- 7.5. Where limits to confidentiality exist in order to prevent the occurrence of harm, information will only be shared with necessary internal and/or external services, including the Safe Campus Evaluation and Assessment Team (SCEAT). Additionally, the identity of the survivor will not be released to the public. If the respondent is a member of the University Community, and the risk level posed is considered high, the name of the respondent may be released by the University for safety reasons. The nature and degree of information that needs to be shared will be assessed by the SCEAT.

8. Disclosures, Supports and Reporting

8.1. Principles of Response

- a) Those who have been affected by sexual violence will be treated with dignity and respect;
- b) Where a disclosure or formal report is made pursuant to this Policy, confidentiality will be respected and where there are limits to confidentiality, listed in section 7.2 of this Policy, these limits will be clearly communicated to the person seeking support;
- c) Survivors have the right to decide what the next steps are for them and how much they would like to share when disclosing their experience;
- d) Confidential counselling and support should be available as quickly as possible to any student who experiences an incident of sexual violence;
- e) Survivors have the right to choose whether or not they file a formal report including those with Campus Security, North Bay Police Services, Ontario Provincial Police, Anishinabek Police Services, Student Code of Conduct, Residence Life, or a formal report under this Policy. Supports and services will always be accessible regardless of whether the person chooses to file a formal report or makes a disclosure of sexual violence. Please see definitions of terms in section 5 of this Policy

8.2. Disclosure and Reporting

- a) A disclosure and formal report are two separate actions that may be taken by a survivor. These terms are defined in section 5 of this Policy.
- b) Supports and services are always available to student survivors whether a formal report is filed or not. The options available will depend on the community status of the respondent, more specifically if the respondent is a student, faculty or staff member. All processes must appropriately provide a fair and impartial process to all parties. Students who disclose sexual violence have a number of possible options available to them. These options are outlined below, in section 8.3 of this Policy.
- c) The Sexual Violence Prevention and Education Coordinator can help a student survivor in understanding each of these pathways and in ensuring that the survivor has the information they need in order to move forward as they choose. Students who may wish to make a disclosure, or staff or faculty who have received a disclosure and who wish further assistance, are encouraged to contact the Sexual Violence Prevention and Education Coordinator for more information on supports, services and pathways to reporting. This contact is listed in section 9.3 of this Policy.
- d) For student respondents information and services are available through the Student Intervention Specialist. This contact is listed in section 9.3 of this Policy.

8.3. Pathways to Disclosure and Reporting for Students

- a) **Disclosure in an emergency situation – Campus Security**
 - In an emergency on campus (i.e., imminent threat of sexual violence and of harm to a person or sexual violence actually occurring) a report can be made in the following ways:
 - i. **Call 911**
 - ii. **Call Campus Security 705-498-7244**
 - iii. **Emergency phones located inside the Education Centre** near the elevators of the H and A wings. These phones are connected directly to Campus Security. All payphones have free access to 911.
 - iv. **Emergency phones located outside the Education Centre and Residence buildings.** These phones can be identified by the blue light and link a caller to an emergency answering service attendant. Simultaneously a call from these phones notifies Campus Security of the call and caller's location.
 - v. **In person:** Campus Security office, Education Centre B215
 - When a person discloses an incident of sexual violence to Campus Security, Campus Security will inform the Office of Student Development and Services that an incident has occurred.

- b) **Disclosure in a non-emergency situation** with the intent to seek support and information.

Survivors may choose to disclose to a University staff or faculty member to share information about their experience in order to receive supports and services. The Sexual Violence Prevention and Education Coordinator, Residence Life Professional Staff and Staff in Student Counselling Services are all trained to receive disclosures.

The Sexual Violence Prevention and Education Coordinator, in Student Development and Services, is a resource for all disclosures in a non-emergency situation. They will provide information about available supports and services, including information on interim measures that may be available to address the immediate needs of the survivor. Student Development and Services is the point of contact for a student affected by sexual violence to request support and accommodations.

These supports and services may include information on available supports (both on and off campus), accommodations for the survivor (academic accommodations and safety planning), or the survivor may not wish any action on the University's part. A formal report to the University or criminal report to police is not required in order to access supports and services.

- c) **Formal University Report Process for Students**, made under:

- Section 9 of this Policy: Reported to Student Development and Services, 705-474-3450 ex. 4099;
- [The Code of Student Rights and Responsibilities](#): Reported to Office of the Assistant Vice President, Students;
- [Residence Life](#): Reported to a member of the Residence Life Management Team.

- d) **Criminal Report**. Survivors may choose to file a criminal report with:

- City of North Bay Police Services: 705-472-1234
- Ontario Provincial Police: 1-888-310-1122
- Anishinabek Police Services: 705-472-0270 or 1-888-310-1122

The Sexual Violence Prevention and Education Coordinator can provide more information about what can be expected should a criminal report be filed, including the option of anonymous reporting.

- e) **Civil Litigation**. Survivors may choose to file a civil proceeding. To find information on civil proceedings for sexual violence please visit www.sexassault.ca. Information on filing a civil proceeding can also be provided by the Sexual Violence Prevention and Education Coordinator.

8.4. Follow up on Student Disclosure with Student Development and Services

- a) When a person discloses an experience of sexual violence to a staff or faculty member and wishes to learn more about supports and services they may be referred to the Sexual Violence Prevention and Education Coordinator. The Sexual Violence Prevention and Education Coordinator will make every effort to assist the person disclosing and will discuss options for support, services and reporting. The options will depend on the person's needs and circumstances. The following are some, but do not include all of the options that are available:
- A referral to supports or services within the University or within larger North Bay community;
 - May work in conjunction with a community based service provider;
 - Availability of interim academic or living accommodation, or other measures to stabilize a situation, to protect a person from retaliation or the threat of retaliation, to address safety concerns, and/or to otherwise support the person. Examples of measures for students are listed in section 8.6.

8.5. Supports and Services for Students

- a) Nipissing University is committed to ensuring that appropriate procedures are in place to respond to student disclosures of sexual violence. The University will support student survivors, regardless of where or when the violence occurred. As per section 8.2(b) of this Policy, students are not required to make a formal report about sexual violence in order to access supports from the University or from within the larger community.

b) On Campus Supports for Students

- Sexual Violence Prevention and Education (SVPE) Coordinator: Referral, support and information regarding reporting and academic accommodation: T: 705-474-3450 ex. 4075, e: SVsupport@nipissingu.ca
- Student Counselling Services: Individual Counselling, referral and safety planning: T: 705-474-3450 ex. 4507
- Campus Health Centre: Medical services and testing: T: 705-474-3450 ex. 5261
- Campus Security Services: Immediate safety concerns: T: 705-498-7244

Supports from the SVPE Coordinator and the Student Intervention Specialist are available to students regardless of location of study.

c) Community Supports

- [Amelia Rising Sexual Assault Center](#), North Bay: T: 705-476-3355
- [Community Counselling Centre of Nipissing](#): program and services for survivors including a male survivor program: T: 705-472-6515

- North Bay Indian Friendship Centre: T: 705-472-2811
- North Bay Metis Council Community Healing and Wellness Program: T: 705-472-0233
- North Bay Counselling Services: specializing in LGBTQ2+ experiences and trauma: www.nbcounsellingservices.com
- North Bay Regional Health Centre, [Sexual Assault Treatment Center](#) : includes forensic testing kits: 705-474-8600 ex. 4478

Students located outside of North Bay and area may contact the SVPE Coordinator to assist with identifying community supports in their area.

More details available at www.nipissingu.ca/nuperspective

8.6. Accommodations and Safety Planning for Students

- a) Nipissing University will provide reasonable accommodation for students whose academic and living experience is impacted by sexual violence. As per section 8.2(b) of this Policy, students are not required to make a formal report about sexual violence in order to seek accommodations from the University.
- b) Academic accommodations may be requested through Student Development and Services. Specific accommodations will depend on the nature of the student's individual needs. Options are arranged through Student Development and Services. Student Development and Services staff will work with a survivor to determine what accommodations are required in the circumstances. These accommodations may include, but are not limited to:
 - Supporting students through a formal report process;
 - Academic support such as working with an academic strategist;
 - Testing accommodation such as: additional time & distraction reduced writing space;
 - Assignment accommodation such as: additional time with assignments.
- c) The Sexual Violence Prevention and Education Coordinator or a Student Counselling Services Counsellor will be available to assist the survivor with safety planning when needed. Each Survivor's circumstances are unique, therefore, each safety plan will be tailored to meet an individual survivor's needs. A typical safety plan identifies ways that safety can be enhanced including a survivor's home, work and school environment, social situations and in the case of emergency. Survivor centered safety planning is based on the survivor's safety needs and can include, but is not limited to:
 - Evaluation of current risk,
 - Identification of strengths and resources,
 - Assistance with safe housing,
 - Provision of cell phone.

9. General Provisions Regarding the Formal Report and Complaint Process for Students

9.1. External reporting and recourse

This Policy and the formal report process do not prevent and are not intended to discourage an individual from also reporting sexual violence to the police, pursuing a complaint of sexual violence through the criminal justice system, or from filing a complaint under the Ontario *Human Rights Code* or another civil proceeding.

9.2. Choice not to file a formal report or complaint or not to investigate

- a) A survivor may choose not to file a formal report as outlined in section 10 of this Policy. As per section 8.2 (b) of this Policy, if a student survivor decides not to file a formal report or requests that the University not investigate, supports and services will remain available to the survivor. Subject to section 9.2 (b) below, the University will respect the student survivor's choice not to proceed with a formal report or to request that the University not investigate a disclosure, and a Complainant who has filed a formal report may withdraw that report in writing at any time prior to completion of the process outlined in section 10.
- b) The Sexual Violence Response Committee (SVRC) may still initiate an investigation if it has reason to believe that a member of the University Community or broader community may be at risk of harm, or if the SVRC determines that the University has a legal obligation to investigate. In such cases, subject to legal requirements, the survivor has the right not to participate in such an investigation. The Committee will appoint an Investigator who will investigate the matter and provide the Committee with a written confidential report containing the details and information gathered during the investigation. The SVRC will consult with the internal authorities on the investigation report and on the appropriate means for further addressing the matter. Please see section 10.2 for more details on the SVRC.

9.3. Support person

The Complainant or the Respondent can be accompanied by a support person of their choice at any time during a formal report process outlined in this Policy. The support person may provide encouragement or other emotional or moral support and may accompany the Complainant or Respondent to meetings. The support person's role is not to act or speak on behalf of the Complainant or Respondent. Oral and written submissions to the Sexual Violence Response Committee must come directly from the Complainant and Respondent. The support person must also agree in writing to maintain confidentiality in accordance with this Policy.

- The Complainant may wish to access the support and services of the Sexual Violence Prevention and Education Coordinator to assist with navigating the provisions of this Policy.

Sexual Violence Prevention and Education Coordinator:

705-474-3450 ex. 4075
SVresponse@nipissingu.ca

- Where the Respondent is a student they may wish to contact the Student Intervention Specialist who is available to provide support and referral and to assist with navigating this Policy.

Student Intervention Specialist
705-474-3450 ex. 4605
SIS@nipissingu.ca

9.4. Confidentiality

In addition to the provisions outlined in section 7 of this Policy, when a formal report is filed under this Policy, there are the following matters of confidentiality to consider:

- a) Confidentiality of information disclosed under this Policy is to be maintained to the greatest extent possible, subject with the University's need to respond appropriately to the situation and to the safety of all members of the University Community. This means that, subject to the limitations on confidentiality set out in section 7, information about an alleged incident of sexual violence may be disclosed (as provided for in this Policy) to those who need to know in order to investigate and/or address the formal report.
- b) To ensure procedural fairness while a formal report process is underway, the Complainant, the Respondent and others who may have knowledge of the matter, including a support person, must maintain confidentiality in accordance with this Policy. This means these people are not to make public statements pending the allegations of sexual violence contained in the report and that includes sharing information on social media. Breaches of confidentiality may jeopardize the proper handling of the allegations and the process outlined in this Policy.
- c) If a breach of confidentiality occurs, the circumstances of the breach and its impact on properly addressing the matter and the fairness of the formal report process may be considered in handling the matter and in processing the formal report. Additionally, a breach of confidentiality could result in sanctions under the Code of Student Rights and Responsibilities. **The confidentiality obligations do not prevent a person from seeking counselling, treatment and/or other support services.**
- d) Documents and information related to a formal report, including written formal report, written responses, witness statements, investigation notes and reports, and documents related to the formal report and its investigation will be securely maintained by Student Development and Services or by Human Resources as appropriate, details outlined in section 10.1 below.

9.5. Timelines for Formal Reports by Students

The timelines in this Policy are meant to ensure that formal reports by students are dealt with in a timely fashion. There may be, in compelling circumstances, reasons to extend a

timeline. In such cases, where the request is made in good faith and the extension does not prejudice or harm those involved in the report, extensions may be granted. It can be difficult to determine appropriate timelines for the resolution, investigation or a final disposition with respect to a formal report. Therefore, where no timelines are mentioned in this Policy, the intention is always to use a reasonable time period and to act as quickly as possible in light of the complexity of the circumstances of the report and in light of circumstances that may arise during the process that are beyond a person's reasonable control.

9.6. Interim Measures for Students

Interim measures may be implemented during the formal report process and pending final decisions. When utilized, interim measures will be put in place by the Assistant Vice President, Students. Measures may include, but are not limited to:

- Separation of the Survivor and the Respondent with regard to academics, living situations, and/or office location;
- No-Contact orders;
- Writ of Trespass;
- Restriction of privileges.

The Sexual Violence Response Committee can review the implementation of interim measures to ensure the measures are appropriate in the circumstances.

10. Formal Report Process

10.1. Filing and initiating a formal report with Nipissing University

- a) Student Development and Services is responsible for receiving formal reports of sexual violence related to students. In the case where the Respondent is both a student and employee, Student Development and Services and Human Resources will jointly receive the report.
- b) A formal report can be filed with either of the above named offices if the Respondent is a member of the University Community and was a member of the University Community at the time of the incident(s) alleged in the formal report.
- c) If the Respondent's relationship with the University ends and they are no longer at or with the University, the formal report process in this Policy may be suspended. If the Respondent returns and once again becomes a member of the University Community, a formal report process may resume.
- d) A formal report must set out in writing the name of the Respondent, the nature and the details of the circumstances, including detailed facts, specific dates and names of potential witnesses. Upon receiving the formal report Student Development and Services will acknowledge receipt, review it if necessary and seek clarification from the Complainant on the information it contains.

10.2. Sexual Violence Response Committee assessment

- a) Student Development and Services will provide the report to the Sexual Violence Response Committee (SVRC). The Chair of the Response Committee will be the Assistant Vice President, Students or designate. Members of the Response Committee include: Faculty representative, selected by Nipissing University Faculty Association (NUFA); Academic Dean (alternating); and a representative from the Office of Aboriginal Initiatives; or appropriate designates. The SVRC will receive training in trauma informed practices for adjudication of incidents of sexual violence. Additionally, whenever possible members of the SVRC will be selected in order to achieve gender parity within the four-member committee. The SVRC may consult with multi-disciplinary professionals or external experts.
- b) The Response Committee will assess the formal report and determine whether the conduct forming the basis of the report appears to fall within the definition of sexual violence as set out in this Policy. If the Response Committee is unable to reach a unanimous decision the Chair of the Committee shall hold the deciding vote.
- c) If the Response Committee considers that the conduct in question appears to fall within the definition of sexual violence as set out in Section 5 of this Policy, the SVRC will appoint an Investigator as per section 10.4(a) of this Policy and inform the Complainant in writing.
- d) If the Response Committee considers that the conduct does not fall within the definition of sexual violence as set out in this Policy, the Response Committee will convey this assessment in writing to the Complainant and inform the Complainant of their right to request a review under 10.3 of this Policy, and will provide the applicable timelines and procedures for requesting this review. In these cases, the Response Committee may also refer the Complainant to another University policy or office as may be applicable or legally required.

10.3. Review of the initial assessment

A request to review the Response Committee's assessment of the report can be made only if it has determined that the report falls outside the definition of sexual violence as set out in this Policy. If the Complainant disagrees with the determination that the report is outside the definition of sexual violence as set out in this Policy, then the Complainant may ask the Provost & Vice-President Academic & Research to review the assessment, if the Complainant submits the request in writing within 10 business days after the date of determination. Upon review, the Provost & Vice-President Academic & Research's decision is final and will be communicated to the Complainant in writing.

10.4. Investigation

- a) Where the Response Committee determines that the allegations contained in the report fall within the definition of sexual violence as set out in the Policy, the Response Committee will appoint an investigator, with competence in conducting investigations related to allegations of sexual violence, to investigate the allegations contained in the report. Investigator may include an individual internal or external to the university, but in no event will an investigator be in a

reporting relationship to any of the parties to the Complaint or have a conflict of interest. University-appointed investigators will be neutral and have appropriate experience and skills in completing investigations relating to issues of sexual violence.

- b) Once an investigator has been appointed, either Human Resources or Student Development and Services will send a written notice to the Respondent and the Complainant, enclosing a copy of the report and informing them of the name of the investigator. This notice will indicate that the Respondent will have the opportunity to provide the investigator with a written response to the report. Both the Complainant and the Respondent will be provided with a copy of the formal report process under this policy.
- c) The investigation will be carried out in a timely fashion. The investigator will endeavor to meet in person with the parties and any witnesses. The investigator will ask the Respondent to respond in writing to the formal report. If the Respondent does not provide a written response within the time requested, the investigation will proceed in the absence of a written response.
- d) The investigator will then send the Respondent's response to the Complainant, who can submit a written reply within the time requested by the investigator. If no written reply is provided within the time requested, the investigator will proceed in the absence of a written reply. The Respondent will receive a copy of the reply, if any. The investigator will examine all of the information submitted by the parties as well as any other information gathered during the investigation and conduct all interviews in a fair, impartial and professional manner. The investigator will remind the individuals of the requirement to protect and keep confidential the personal information of the persons involved in the investigation.
- e) The investigator will keep the Response Committee informed on the status of the investigation at regular intervals or at the request of the Response Committee. The officers charged with receiving the report will keep the Complainant and the Respondent informed on the status of the report and of the investigation.

10.5. Investigation report

- a) Upon completion of the investigation, the Investigator will provide to Student Development and Services or Human Resources, or both, a written confidential report containing the facts and information gathered during the investigation.
- b) The relevant office named above will send the investigation report to the Complainant(s) and to the Respondent(s) and remind them of the need to protect and keep confidential the personal information of those involved in the investigation and to avoid acts of reprisal. Investigation reports will be treated in a confidential manner in accordance with the *Freedom of Information and Protection of Privacy Act*. Witness and other personal information will be omitted from the investigator's report when provided to the Complainant(s) and the Respondent(s).

10.6. Review of report and committee meetings

- a) Student Development and Services or Human Resources will send a copy of the report, the response and the written replies as well as the final investigation report to the members of the Response Committee who will review the report.
- b) After this documentation is provided to the Response Committee, the Chair of the Response Committee will convene a meeting at which the Response Committee will formally consider the matter and send a written notice of the meeting to the Complainant and the Respondent. The notice will indicate the time, place and purpose of the meeting and will provide notice of all issues to be considered at the Response Committee's meeting. This notice will indicate that the Complainant and Respondent have the opportunity, but not the obligation, to meet in person with the Response Committee and to submit any new information or make written submission relevant to the official complaint or the investigators report. If the Complainant or the Respondent do not attend the meeting, the Response Committee will proceed in their absence.
- c) All meetings of the Response Committee will be conducted in person, unless agreed to by all parties, and *in camera*. As indicated in section 10.6 (b) the Complainant and the Respondent have the opportunity, but not the obligation, to attend any portions of the Response Committee's meetings at which the Response Committee is receiving representations from the parties in accordance with section 10.6 (d) below. If the Complainant and/or the Respondent choose to involve support person(s) as contemplated by paragraph 8.4 of this Policy, the support person(s) can attend as an observer only and may not speak on behalf of or represent the Complainant or Respondent.
- d) The Complainant and the Respondent will be afforded the opportunity to make written and oral presentations to the Response Committee at the meeting, including representations on the investigation report and on any potential corrective action or other measures. The Complainant and the Respondent are expected to speak for themselves. Members of the Response Committee may ask questions of the Complainant and the Respondent. If the Committee requires further information they may return to the investigator for further investigation.
- e) The Response Committee will ensure that the Complainant and the Respondent are given the opportunity to know and respond to information that it intends to rely upon in making the decisions and recommendations. If the Response Committee is unable to reach a unanimous decision the Chair of the Committee shall hold the deciding vote.

10.7. Decision of the Review Committee

- a) Upon reviewing and considering the final investigation report and any representations made by the Complainant and the Respondent or other person at its meeting with them, the Response Committee will:
 - Consider any process issues raised concerning the investigation.

- Decide whether the Respondent has engaged in any conduct contrary to this Policy.
 - Decide what corrective or other action, if any, is appropriate to remedy the policy violation, to prevent future policy violations by the Respondent or others and to ensure the safety of all individuals.
- b) The decisions of the Response Committee and the reasons in support of it must be in writing and be delivered to the Complainant(s) and to the Respondent(s). Whenever appropriate the Complainant(s) will receive information in advance of the Respondent(s). Additionally, the Sexual Violence Prevention and Education Coordinator will be available to work with the Complainant to address plans for safety and wellness. The Complainant will be advised of the outcome of the investigation and any corrective action taken. In addition, it may be deemed necessary to share further information if withholding that information may impede a Complainant's or Respondent's ability to continue their studies in a safe environment.
- c) Consequences or measures in response to sexual violence will depend on the circumstances, on the severity of the conduct, on any mitigating factors and on applicable collective agreements or other University policies. If a Respondent is found to have engaged in conduct contrary to this Policy, consideration will be given to imposing appropriate sanctions on the Respondent, to taking steps to prevent the reoccurrence of similar incidents in the future in the future, to addressing the negative impact of the incident on the Complainant, and to ensuring or enhancing the safety of all individuals. The following list provides examples of consequences and measures and is not meant to be exhaustive nor necessarily representative of a progression of consequences or measures:
- A letter of apology;
 - Attendance at educational sessions on the impact of sexual violence;
 - No contact order;
 - Writ of Trespass;
 - Restricted or prohibited access to University campuses and/or services;
 - For student employees discipline up to and including termination;
 - For students' suspension or expulsion from the University, with or without ongoing restrictions or prohibitions on access to University property.

11. Appeal Process

11.1. Appeal

The appeal must be made to the Assistant Vice President, Students. Following receipt of the appeal, the Assistant Vice President, Students will contact the Provost & Vice President Academic and Research (PVPAR). The (PVPAR) will be responsible for reviewing all of the information collected and the process followed by the SVRC to determine if either of the grounds for appeal are present. The PVPAR is not responsible for reviewing any consequences or measures imposed by the SVRC. The PVPAR will receive sexual violence and procedural fairness training. The PVPAR may consult with multi-disciplinary professionals or external experts.

- a) The appeal is of a final decision of the Response Committee.
- b) An appeal can only be made by either the Complainant or the Respondent.
- c) The appeal must be made in writing and within 10 business days after the date of the final decision that is the subject of the appeal.
- d) The appeal must include the reasons for the appeal, the reasons why the appeal should be granted, the arguments in support of the appeal and the outcome sought.
- e) Appeals must be based on one of the following two grounds. The person seeking to appeal must demonstrate that:
 - There has been a fundamental procedural error in the making of the final decision and that such an error caused or will cause actual prejudice to the person seeking the appeal; or,
 - There are new facts relevant to the final decision that were not available and could not have been provided to the Response Committee.
- f) The following is a non-exhaustive list of some of the examples of situations where an appeal would not meet the requirements of this section:
 - The appeal asks for review of a consequence or measure that has not yet been fully decided or approved;
 - The appeal repeats arguments made at the meeting of the Response Committee or in written submissions and does not provide any new information relevant to the final decision;
 - The appeal is based only on a disagreement with a finding of fact, including findings made about the credibility of witnesses;
 - The appeal raises new arguments that were not made, but could have been made at the Response Committee meeting or in written submissions or to the appropriate Manager/Supervisor or University governing body; and
 - The appeal amounts to a mere speculation or a bold statement of a procedural error causing prejudice and does not provide detailed and convincing information to establish the error and to establish a link between the error and the actual prejudice or a reasonable expectation of prejudice to the person seeking the appeal.

11.2. The appeal process is conducted in writing. The Complainant and Respondent, as the case may be, do not need to respond to the appeal unless the PVPAR sends a letter requesting them to do so.

11.3. The PVPAR reviews the appeal, determines whether the appeal meets the requirements of the paragraph 11.2 (e) of this Policy and makes the decision either dismissing or granting the appeal. All decisions of the PVPAR are final. If an appeal is granted by the PVPAR, the SVRC will be reconstituted with a new panel of members and a new investigator appointed to conduct a new investigation.

12. Maintenance of Statistics

- 12.1. Statistics will be maintained as per the regulations outlined in Bill 132 and subsequent legislation. Anonymous statistics will be collected from Student Development and Services and Campus Security.
- 12.2. The Board of Governors will receive and review an annual report on sexual violence from Student Development and Services. This annual report will include the following:
 - a) The number of times supports, services and accommodations relating to sexual violence have been requested by students.
 - b) Information about the types of supports, service and accommodations requested.
 - c) Education and prevention programming that has been implemented to promote the awareness of both supports and services that are available to students.
 - d) The number of incidents and formal reports of sexual violence made to Campus Security and Student Development and Services.

Because of the nature of response for incidents of sexual violence combined with the need for confidentiality, it is possible that the number of times support services and accommodations are requested may represent multiple support requests from a single student.

12.3. Jurisdiction

This Policy falls under the jurisdiction of the Provost and Vice President, Academic and Research, and the Vice President, Administration. The interpretation and application of this Policy is the responsibility of the Assistant Vice President, Students.

To prevent delay, when positions authorized to exercise responsibility under this Policy are vacant or during the unavailability of persons holding these positions, a designate may be appointed to exercise their authority under this Policy.

13. Review of Policy

- 13.1. The University recognizes that appropriately addressing sexual violence on campus is an evolving issue and that the University will revisit this Policy and its associated resources, and other related and existing University policies, on a regular basis.
- 13.2. Student Development and Services is responsible for the review and implementation of this Policy. This review will be done with involvement from stakeholder groups. This Policy will be reviewed at least once every three years.
- 13.3. Updates to the following information contained in this Policy do not require additional approval:
 - a) The supports and services outlined in section 8 of this Policy;

- b) The identity of the officials, offices and departments at the University that provide information about supports, services and accommodations or that receive formal reports.

14. Related Legislation

Ontario [Bill 132](#), Sexual Violence and Harassment Action Plan Act (Supporting Survivors and Challenging Sexual Violence and Harassment), 2016

[O. Reg. 131/16: Sexual Violence at Colleges and Universities](#)

[Ontario Human Rights Code](#)

[Freedom of Information and Protection of Privacy Act \(FIPPA\)](#)

15. Related Policies and Procedures of Nipissing University

[Code of Student Rights and Responsibilities](#)

[Emergency Management Plans](#)

[Harassment and Discrimination Policy and Procedures](#)

[Respectful Workplace & Harassment Prevention Policy](#)

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