

Policy Title:	Sexual Violence and Misconduct Policy
Policy Number:	2604

1. Purpose

The purposes of this Sexual Violence and Misconduct Policy (this “Policy”) and the related Sexual Violence and Misconduct Procedure (the “Procedure”), are to articulate the University’s duty and commitment to support members of the University Community who are impacted by Sexual Violence and Misconduct, to create and make available programs and resources to educate its community on the prevention of Sexual Violence and Misconduct, and to provide a fair and effective process for responding to and investigating allegations of Sexual Violence and Misconduct.

2. Scope

This Policy applies where;

- an incident of Sexual Violence and Misconduct is alleged to have occurred on University property, or off University property in connection with an event or activity sponsored by or under the auspices of the University, and
- the alleged Sexual Violence and Misconduct involves a member of the University Community, or a person who was a member of the University Community at the time of the incident.

If an incident of Sexual Violence and Misconduct does not meet the above criteria, the University may still take steps to mitigate the impact of the incident on the learning or working environment.

The University does not have jurisdiction to take disciplinary action against a person who is not a member of the University Community or who is not currently affiliated with the University. However, under certain circumstances the University may be able to take other action, such as revoking a person’s access to University property or a University event.

This Policy is separate from any criminal or civil proceedings. The University is not responsible for determining violations of criminal or civil law.

3. Policy Statement

University of Niagara Falls Canada (the “University”) is committed to providing a safe working and learning environment that allows for full and free participation of all members of the University Community. Sexual Violence and Misconduct undermines these objectives and violates the fundamental rights, personal dignity and integrity of individuals.

4. Policy Principles

Sexual Violence and Misconduct is strictly prohibited under this Policy.

A breach of this Policy by a member of the University Community represents serious misconduct and

may be cause for disciplinary sanctions including, where appropriate, suspension, dismissal or expulsion.

The University recognizes its responsibility to increase awareness of Sexual Violence and Misconduct, to prevent its occurrence within the University Community, to support persons impacted by Sexual Violence and Misconduct, to provide procedures to handle Disclosures and Complaints, and to remedy situations where Sexual Violence and Misconduct has been found to have occurred.

The University is committed to addressing Sexual Violence and Misconduct by:

- implementing and actively promoting awareness and training programs to educate the University Community regarding Sexual Violence and Misconduct and the issues addressed in this Policy;
- promoting working and learning conditions that seek to eliminate the potential for incidents of Sexual Violence and Misconduct to occur within the University's facilities or operations;
- reducing barriers to Disclosing and filing Complaints regarding Sexual Violence and Misconduct;
- responding to Disclosures and Complaints in a procedurally fair, efficient and consistent manner;
- supporting members of the University Community who are impacted by Sexual Violence and Misconduct, through academic, non-academic, and other supports as required; and
- communicating the support services and the resources available to members of the University Community who may be directly or indirectly impacted by Sexual Violence and Misconduct.

All persons who Disclose or file a Complaint regarding an experience of Sexual Violence and Misconduct can expect from the University:

- to be treated with compassion, dignity, and respect;
- to be respected in their choice as to whether they wish to Disclose or file a Complaint regarding their experience;
- timely assistance with safety planning;
- timely information about available support services and resources;
- discussion of appropriate academic, workplace or other accommodations;
- to be advised of the options for addressing an incident of Sexual Violence and Misconduct, and the limits to confidentiality associated with each option; and
- if they do decide to file a Complaint, a clear explanation of the investigation and decision process, a procedurally fair and unbiased process, and regular updates on the status of the process.

All persons who are accused of violating this Policy can expect from the University:

- to be treated with compassion, dignity, and respect;
- timely information about available support services and resources;
- to be advised of the options available to them; and
- if a Complaint is filed, a clear explanation of the investigation and decision process, a procedurally fair and unbiased process, and regular updates on the status of the process.

The University strongly encourages all members of the University Community to become

knowledgeable about Sexual Violence and Misconduct and their rights and obligations under this Policy and the Procedure.

The University reserves the right to initiate an investigation and/or to inform the relevant law enforcement agency without the consent of the person Disclosing or filing a Complaint regarding an incident of Sexual Violence and Misconduct, if the University has a reasonable belief that the safety of a member of the University Community is at risk or is required to do so by law.

The University reserves the right to implement interim measures as it considers appropriate, to protect the safety of the University Community or any of its members during an evaluation of a Disclosure or Complaint or pending the completion of an investigation. Such measures may include, but are not limited to: directing the Complainant, Respondent, witnesses or other parties to cease and desist from engaging in a particular type of behaviour; restricting access to a University campus or specific areas of a University campus; alteration of the learning or work schedule of an individual; imposing a no-contact directive; and/or temporary, non-disciplinary leave of an individual.

A member of the University Community has the right to pursue other processes external to the University in connection with alleged Sexual Violence and Misconduct, such as reporting the matter to the police, initiating a civil action, or filing a complaint under the Ontario Human Rights Code. If an external course of action is pursued, the University may elect to continue with the process under this Policy, or to suspend the process under this Policy pending the outcome of the external process..

5. Definitions

These definitions apply to terms as they are used in this policy.

Word/Term	Definition
University Community	Means all University Employees and Students, and any other person who is contractually obligated to comply with this Policy.
Complainant	Means a person who files a Complaint. In some instances, the University may act as a Complainant where it becomes aware of allegations of Sexual Violence and Misconduct that, if true, would violate this Policy but no person comes forward with a Complaint, or where an investigation is required by law.
Complaint	Means a formal written complaint containing allegations of Sexual Violence and Misconduct or other violation(s) of this Policy.
Consent	Means freely given voluntary agreement to engage in the sexual activity in question. For the purposes of this Policy, Consent: <ul style="list-style-type: none"> • is never assumed or implied, • is not silence or the absence of “no”, • cannot be given if the individual is incapacitated by alcohol or drugs, or is unconscious, • can never be obtained through threats or coercion, • can be withdrawn at any time, • cannot be obtained if a party induces another to engage in sexual



Word/Term	Definition
	activity by abusing a position of trust, power or authority, <ul style="list-style-type: none"> • given for one kind or instance of sexual activity does not mean that consent is given for any other sexual activity or instance and cannot be expressed by the words or conduct of a third party.
<p style="text-align: center;">Manager</p>	Means: <ul style="list-style-type: none"> • the Manager, Human Resources, if the person making a Disclosure or filing a Complaint is an Employee, or any other person who is contractually obligated to comply with this Policy who is not a current or former student of the University. • the Manager, Student Affairs, if the person making a Disclosure or filing a Complaint is a Student.
<p style="text-align: center;">Disclosure</p>	Means the communication to a University Employee of an experience of Sexual Violence and Misconduct. Disclosure on its own does not initiate an investigation, except where required by this Policy or by law.
<p style="text-align: center;">Employee</p>	Means an employee of the University.
<p style="text-align: center;">Investigator</p>	Means a person appointed by the University to investigate a Complaint.
<p style="text-align: center;">Respondent(s)</p>	Means a person or persons alleged to have engaged in conduct that violates this Policy.
<p style="text-align: center;">Responsible Administrator</p>	Means an executive of the University, or an administrator responsible for a University department or service area.
<p style="text-align: center;">Retaliatory Action</p>	Means any adverse action taken against a person because that person seeks advice on making a Disclosure or Complaint, makes a Disclosure or Complaint, or cooperates in an investigation of a Complaint.
<p style="text-align: center;">Sexual Violence and Misconduct</p>	Means any sexual act, or act targeting a person’s sex, sexual orientation, gender identity or gender expression, whether the act is physical or psychological in nature, which is committed, threatened or attempted against a person without the person’s Consent, including but not limited to: <ul style="list-style-type: none"> • sexual assault; • sexual exploitation; • sexual harassment; • stalking; • indecent exposure; • voyeurism; • exhibitionism, including display or distribution of pornographic images or other content; • the display or 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; • the attempt to commit an act of Sexual Violence and Misconduct; or • the threat to commit an act of Sexual Violence and Misconduct.
<p style="text-align: center;">Student</p>	Means a person who is enrolled as a student at the University.

Word/Term	Definition
Young Person	Means a person who is under the age of 19 years.

6. Related policies

Sexual Violence and Misconduct Procedure.

7. Responsibility

The Manager, Human Resources and the Manager, Student Affairs have joint responsibility for the administration of this Policy and the Procedure.

8. Review of This Policy

The University will conduct regular reviews to evaluate the effectiveness of this Policy, with reviews occurring at least annually or as otherwise required by law.

9. Amendments to This Policy

The University reserves the right to amend or update this Policy from time to time at its sole discretion.