

Policy Title: Sexualized Violence

Parent Policy: Bullying and Harassment Policy

Policy Administrator: Vice President Student Life & Executive Director of Human Resources

Approving Body: Executive Leadership Team

Approval History: none (new policy)

FOUNDATIONAL STATEMENTS

1. Rationale:

1.1 Sexualized violence (as defined in section 18) is unacceptable and prohibited conduct at Trinity Western University (TWU, or “the university”).

1.2 TWU recognizes that sexualized violence is a significant and systemic issue for society and higher education in particular, that can affect anyone at the university. This policy sets out the university’s framework and strategy to address sexualized violence.

1.3 As a community rooted in the Evangelical Christian tradition, comprised of employees and students who have committed to strive to live according to biblical precepts, sexual violence is abhorrent to the values of the TWU community.

1.4 TWU recognizes its responsibility to increase awareness of sexualized violence, work proactively to prevent its occurrence within the university community, support survivors and those who are impacted by sexualized violence, diligently investigate reports of sexualized violence, deal fairly with those accused of sexualized violence, and deal fairly and firmly with those who have been found responsible for violating this policy.

2. Purpose

2.1 The objectives of this policy are to cultivate institutional, collective, and individual responsibility in order to create an environment in which consent and respect are foundational principles and practices at the university, consistent with the Evangelical Christian beliefs on which TWU is founded.

3. Scope of this Policy:

3.1 This policy and its associated procedures apply to all members of the university community.

3.2 The policy and its associated procedures are designed to complement and not conflict with university employment agreements. Where a university employment agreement applies, such as in a disciplinary process, the processes in the employment agreement will be followed. For those who engage with this policy, the specifics of any employment agreement process will be identified and explained.

3.2 All members of the university community impacted by sexualized violence may access support under this policy. However, the university only has jurisdiction to investigate reports of sexualized violence that are alleged to have occurred:

- (a) On any property that is controlled by the university and used for university purposes;
- (b) When the respondent is or was in a position of power or influence over the survivor's academic or employment status at the university; or
- (c) At an event or during an activity sponsored by or carried out under the auspices of the university, including but not limited to:
 - (i) Athletic events including travel where teams or athletes are representing TWU;
 - (ii) Field schools or extension campuses;
 - (iii) Distance and online courses;
 - (iv) Placements (including co-op and practica);
 - (v) Academic or professional conferences;
 - (vi) Volunteer activities or service projects; and
 - (vii) Academic or research field work.

3.3 If an incident does not meet the above criteria, the university may still take actions to mitigate the impact of the incident on the learning, living, or working environment. If an individual is unsure about whether an incident meets the above criteria, then that individual is encouraged to meet with a Contact Person.

3.4 The university may accept disclosures or reports from persons seeking to become members of the university community in circumstances directly affecting their application to become a member, and from former members of the university community in circumstances directly affecting their departure from the university.

3.5 The university may accept disclosures or reports from individuals who are not members of the university community if the respondent is a member of the university community, or if the incident occurred on university property or in connection with a university activity.

3.6 The university does not have jurisdiction to investigate allegations 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 can revoke visitors' access to university property.

3.7 This policy and its procedures are separate from any criminal or civil proceedings. The university is responsible for determining whether a university community member has violated this policy, and is not responsible for determining violations of criminal or civil law. University processes under this policy or associated procedures may be suspended when criminal proceedings are underway; the university will continue to provide support to members of the university community as described in this policy.

4. Policy Statement

4.1 TWU is committed to addressing sexualized violence by:

- (a) Implementing and actively promoting trauma-informed education, awareness, prevention, and training programs, in various formats and appropriate for diverse audiences;
- (b) Receiving disclosures and reports of sexualized violence;
- (c) Working to remove barriers to disclosures and reports of sexualized violence;
- (d) Communicating the support services and the resources available to all members of the university community who may be directly or indirectly impacted by sexualized violence;
- (e) Supporting survivors and those impacted by sexualized violence, through academic and nonacademic supports as appropriate; and
- (f) Coordinating consistent, fair, and transparent responses to sexualized violence disclosures and reports.

5. Principles of the Policy

The following principles are intended to assist in the interpretation of this policy.

5.1 All acts of sexualized violence are prohibited under this policy.

5.2 Anyone can experience sexualized violence, therefore this policy applies to all university community members regardless of a person's social position or position within the university structures, hierarchies, and power relations.

5.3 Sexualized violence does not exist or operate in isolation, and some individuals or groups experience sexualized violence at higher rates. Every effort to address sexualized violence should be grounded in an intersectional understanding that each person's experience will be affected by many factors, including, but not limited to, their sex; gender identity and expression; sexual orientation; family status; Indigenous, racial, or ethnic background; language barrier; ability; faith; age; socioeconomic status; academic standing; as well as their position within university structures, hierarchies, and power relations.

5.4 Every individual should expect to be able to learn, work, and live in a university environment that is free from all forms of sexualized violence. The university expects every member of the university community to practice consent and respect for the dignity and diversity of all community members, and to foster an environment in which these are fundamental principles consistent with the Evangelical Christian beliefs on which TWU is founded.

5.5 Retaliation of any kind is prohibited, including through social or other electronic media. Any member of the university community found to have engaged in retaliation, or threatened or attempted retaliation, including a third party may be sanctioned under this policy or other university policies.

5.6 A person may also be sanctioned for retaliation if that person breaches the confidentiality of a disclosure or report from a survivor or person impacted by sexualized violence.

5.7 All university academic and non-academic administrators are expected to take active steps to incorporate the principles of this policy into their units.

5.8 The university is committed to transparency and accountability with respect to the implementation of this policy and its related procedures.

6. Expectations for Those who may Engage with the Policy

6.1 The university is committed to supporting all survivors and those impacted by sexualized violence, while at the same time instituting fair and impartial response processes.

6.2 The university recognizes the serious impacts of sexualized violence and trauma on survivors, other members of the university community, and beyond, and is committed to responding in a manner that promotes empowerment and recovery, and minimizes re-traumatization.

6.3 The university is committed to trauma-informed practices and responses. This includes providing options to survivors and those impacted by sexualized violence on how to proceed in accessing supports, and whether or not to proceed with reporting processes.

6.4 Survivors and those who are impacted by sexualized violence have the right to choose how and when they engage with the university and the university's formal reporting processes.

6.5 Individuals will not be blamed for experiencing sexualized violence.

6.6 All persons who disclose or report an experience of sexualized violence to the university can expect:

- (a) To be treated with compassion, dignity, and respect;
- (b) To be respected in their choice as to whether and to whom they wish to disclose or report their experience;
- (c) Timely assistance with safety planning;
- (d) Information about available on- and off-campus support services and resources;
- (e) Non-judgmental and empathetic support; and
- (f) If they decide to report their experience, a clear explanation of the investigation and adjudication process, regular updates on the status of the process, and ongoing support.

6.7 All those who are accused of causing harm, and those who are found responsible under this policy, can expect:

- (a) To be treated with compassion, dignity, and respect, and provided with support throughout the process;
- (b) A fair and unbiased process;
- (c) A clear explanation of the process, options available to them, and potential outcomes; and
- (d) Opportunities to engage in community accountability processes where suitable.

7. Commitment to Education and Training

7.1 The overall goal of sexualized violence education is to build a working, learning, living, and social environment at TWU based on the principles and practices of consent and respect through the awareness and prevention of sexualized violence.

7.2 The university is committed to providing education and training programs pertaining to preventing, and responding to, incidents of sexualized violence to all university community members.

7.3 The education and training will:

- (a) Be proactive and prevention-focused, with consent and respect as core elements;
- (b) Take into account intersectional barriers, power relationships, and other relevant factors;
- (c) Be trauma-informed;
- (d) Facilitate the dissemination of common definitions, principles, and shared values across the university community;
- (e) Be specific, tailored, and accessible to diverse campus populations; and
- (f) Be regularly reviewed and assessed.

7.4 In addition, TWU is committed to:

- (a) Making appropriate and up to date training available for all members of units and offices most likely to receive sexualized violence disclosures;
- (b) Making information on trauma-informed responses to disclosure available to all faculty, staff, and students; and
- (c) Addressing harmful attitudes and behaviours that reinforce beliefs about sexualized violence such as rape myths and victim blaming that perpetuate an environment where violence is normalized.

DISCLOSURES AND REPORTS

8. Immediate Assistance

8.1 The university encourages, but does not require, survivors and those impacted by sexualized violence to seek immediate assistance. Seeking assistance promptly may be important to ensure physical safety, to obtain medical care or emotional support, or to preserve evidence. Full information on accessing immediate assistance and external and internal resources will be made available.

9. Choice of Process

9.1 Survivors or those impacted by sexualized violence are entitled to choose the process that is best for them.

9.2 Contact Persons are available to assist survivors and those impacted by sexualized violence in understanding their options. Individuals are encouraged to communicate with Contact Persons for advice and referrals.

9.3 Survivors and those impacted by sexualized violence may choose to:

- (a) Disclose their experiences to a member of the university community;
- (b) Make a report to the university;
- (c) Report to the university through a third party;
- (d) Make a third party report to the police;
- (e) Report a crime directly to the police;
- (f) File a human rights complaint with the BC Human Rights Tribunal; and/or
- (g) File a civil suit. These options are not mutually exclusive – a survivor or person impacted by sexualized violence may choose to pursue any, all, or none of them.

9.4 The university will make a mechanism available to survivors and those impacted by sexualized violence to anonymously disclose their experiences to the university, so that the university has a record of what happened but not the identity of the person making the disclosure. The university's response to an anonymous disclosure may be limited if the university cannot follow up with the person making the disclosure.

9.5 Disclosures or reports of sexualized violence can occur immediately after the incident or several months or years later. In the latter case, they might be triggered by another experience. University support systems will be designed to be flexible and open to a diversity of experiences and needs.

9.6 The university recognizes that survivors and those impacted by sexualized violence may not be ready to disclose or report immediately after an incident of sexualized violence. There is no time limit to an individual disclosing or reporting their experiences and accessing support under this policy. The university may not have jurisdiction to investigate an incident if parties involved are no longer affiliated with the university, or the lapse of time may make it impossible to investigate.

9.7 The procedures associated with this policy describe the processes that the university will follow. Detailed information about options and what to expect for survivors, respondents, and all parties involved will be provided in multiple formats.

9.8 For sexual violence that is limited to sexual harassment, complainants may choose to rely on and use the Bullying and Harassment Policy and associated Procedures, which would then apply to any investigation and determinations, instead of any other process under this policy.

10. Disclosures

10.1 Survivors and persons impacted by sexualized violence may disclose their experiences to any member of the university community. Individuals may disclose for a variety of reasons, including to access support. Individuals who disclose will be taken seriously, and can expect to be treated according to the values listed in section 6.6. A disclosure is not a report and will not initiate an investigation.

10.2 A university community member may be required to disclose information they receive if any of the following circumstances apply:

- (a) A person is at risk of self-harm or of harming others;
- (b) There is an imminent risk of harm to the university community and/or the broader community;
- (c) The disclosure involves sexual harassment in the workplace;
- (d) A person under the age of 19 is endangered; or
- (e) Disclosure is otherwise required by law.

In these instances, the minimum amount of information needed to meet legal or other obligations will be disclosed. Any university community member who is unsure about their responsibility to disclose should seek advice from a Contact Person.

10.3 Employees who receive a disclosure should ensure that the individual disclosing to them is aware of this policy and of the option to seek further assistance from a Contact Person.

10.4 Members of the university community who receive a disclosure may communicate with a Contact Person, or the appropriate person in their unit, for advice and personal support.

10.5 Employees who receive a disclosure should communicate with a Contact Person to create an anonymous record of the disclosure.

10.6 Unless one of the exceptions in section 10.2 applies, members of the university community who receive disclosures must obtain the consent of the person who disclosed to them before sharing any information about the person who disclosed.

11. Reports

11.1 University community members who wish to make a sexualized violence report should communicate with a Contact Person or the Director of Campus Security. A report may be made at any time – see section 9.6.

11.2 Individuals who seek to become members of the university community, such as prospective students or prospective faculty or staff, may make a report to a Contact Person or the Director of Campus Security.

11.3 A university administrator, under the advisement of a Contact Person or the Director of Campus Security may make a report on their own initiative when required to comply with the university's legal obligations and/or its policies, or when presented with an allegation that may put the university or its community members at risk.

11.4 The university will promptly respond to reports of sexualized violence made to it under this or any other university policy. All university investigations and adjudicative processes will follow principles of fairness and natural justice, and will protect the rights of the complainant, the respondent, and witnesses. Investigators will conduct interviews, document testimony, and follow the evidence. Upon completion of the investigation, a determination of whether the sexualized violence policy has been violated will be made by applying the balance of probabilities standard of proof.

11.5 Reports may be made anonymously or through third parties.

11.5.1 The university may be unable to investigate an anonymous or third party report due to a lack of information from the survivor or person impacted by sexualized violence.

11.5.2 Where other sufficient information exists, the Director of Campus Security or designate may decide to proceed with an investigation. In such cases, the survivor or person impacted by sexualized violence has the right to not participate in the investigation. The university will act in a survivor-centred manner.

11.5.3 If the university does not investigate, a record of the anonymous or third party report will be retained in the Student Life office under restricted access. Access will be restricted to the Executive Leadership Team (or delegate).

11.5.4 The Director of Campus Security may consider whether any other steps can and should be taken, which may include increased Campus Security presence at certain times or in certain places, or, in appropriate cases, contacting the third party who submitted a third party report to find out if the survivor or person impacted by sexualized violence would consider submitting a report or participating in an investigation.

11.6 Individuals have the right to involve a support person of their choice, and/or legal counsel in any meetings or processes related to a report of sexualized violence.

11.7 If, after reviewing a report of sexualized violence, the university decides not to investigate, this should not be seen as a judgment against any person or a denial that the incident occurred. There are many reasons why the university may not investigate – see the Disclosure and Reporting Procedures for more information. In all cases, the university will support the complainant even if the university does not investigate the complainant's report.

11.8 The complainant has the right to withdraw their report at any stage in the process. However, there are circumstances when the university will decide to proceed without the complainant's involvement, such as those listed in section 10.2.

11.9 The complainant has the right to choose how they participate in the investigation, including the right not to participate; however, if the complainant decides to not participate, the university's investigation may be limited. Complainants may choose to be kept informed about the investigation whether or not they participate.

11.10 Formal university reporting options include:

- (a) Making a report under this Sexualized Violence Policy; or
- (b) Making an informal or formal complaint of sexual harassment under the Bullying and Harassment Policy; or
- (c) For all faculty and staff, reporting the incident to their supervisor.

11.11 The university recognizes that being involved in an investigation process can be difficult. The university is committed to treating all individuals involved in a manner that is respectful, trauma-informed, and procedurally fair. All participants have the right to:

- (a) Have the complaint process explained to them;
- (b) Ask questions about the process;

- (c) Receive information about available supports and accountability options; and
- (d) Communicate their own experiences. (See Section 16.12 regarding public statements.)

12. Interim Measures

Examples of interim measures include: no contact directives; restricting or removing a respondent's access to all or part of campus (such as classroom buildings, residence, athletic facilities, etc.); moving a student's location in university residence; placing faculty or staff on leave with pay; or restricting a respondent from specified activities or other university privileges.

12.1 Where the university receives information that requires it to act to protect university community members' health or safety, or university property, the university may impose interim measures before the conclusion of an investigation. For students, interim measures may include an immediate removal of the respondent from the university community, imposed in accordance with the TWU Student Handbook guidelines for Emergency Temporary Suspensions.

12.2 Interim measures seek to protect the safety of all parties involved and to protect the integrity of the ongoing investigation or disciplinary process. The need for interim measures, and which measures are imposed, will be determined on a case by case basis taking into account the nature of the allegations and the circumstances of each situation.

12.3 Any decision to impose interim measures will be without prejudice to the rights of both parties, and will not be construed against the complainant or respondent. Interim measures will remain in effect for as long as is reasonably required pending relevant findings and/or the outcome of an investigation. Individuals affected by interim measures may request, in writing, a review of such measures.

13. Statement on Concurrent Process

13.1 The university may proceed with an investigation into a report of sexualized violence while the incident is also being investigated by the police. The investigation process under this policy may occur simultaneously to, prior to, or following any criminal, employment, or other proceeding. The university may suspend its investigation pending the outcome of another process, or based on a participant's health or ability to participate.

14. Amnesty for reports of Sexual Violence

14.1 The university recognizes that some survivors and persons impacted by sexualized violence may be reluctant to come forward. One of these factors may be a fear of being sanctioned for substance use, or other violations of the TWU Community Covenant. The university seeks to remove barriers and create an environment where individuals feel comfortable disclosing and reporting incidents of sexualized violence. Hence, the university will not subject any individual who discloses or reports sexualized violence to disciplinary action for other Community Covenant violations brought to light by disclosing or reporting the incident(s).

15. Campus Situation Assessment Team (CSAT)

15.1 The university may engage CSAT to review risk, coordinate support and services, and consider recommendations for interim measures. CSAT may add additional members as appropriate based on the nature of the disclosure or report.

16. Confidentiality and Privacy

16.1 Confidentiality is an important part of fostering an environment where individuals feel safe disclosing incidents of sexualized violence and seeking support. TWU respects the privacy of all members of the university community, and will honour requests for confidentiality to the extent possible.

16.2 The information and records created and received to administer this policy are subject to the access to information and protection of privacy provisions of British Columbia's Personal Information Protection Act (PIPA), and the university's Privacy Policy. The information and records will be treated as highly confidential, in compliance with PIPA, with applicable university policies, and with the relevant employment agreement.

16.3 University faculty, or staff who receive a disclosure or a report of sexualized violence or who are involved in addressing or investigating it must:

- (a) Make every reasonable effort to protect personal information and maintain confidentiality;
- (b) Collect the minimum information about individuals that relates directly to and is necessary to respond to a disclosure or report, which is considered to be supplied in confidence;
- (c) Use the information about individuals only for the purposes of, or those consistent with, addressing the situation, investigating, or taking disciplinary action;
- (d) Limit use of information about individuals to those within the university who need to know to perform their duties as a faculty or staff member; and
- (e) Disclose personal information in all other circumstances only as permitted under PIPA.

16.4 The university may use or disclose personal information, including where:

- (a) The use or disclosure is authorized by the affected individual;
- (b) It determines compelling circumstances exist that affect any university community member's health or safety as authorized by the Executive Leadership Team (or delegate);
- (c) A law or university policy authorizes or requires its use or disclosure, for example, an incident involving a minor, occupational health and safety legislation, and human rights legislation;
- (d) It prepares or obtains legal advice for the university;
- (e) It complies with a subpoena, a warrant, or an order issued by a court, person, or body in Canada with jurisdiction to compel the production of information;

- (f) It uses or discloses the information for the purpose for which the information was obtained or compiled or for a use or disclosure consistent with that purpose (for example, where it is necessary to fulfill its duty of procedural fairness or where necessary for the conduct of the investigation);
- (g) A faculty or staff member needs the information to perform their employment duties;
- (h) The disclosure is to a law enforcement agency in Canada to assist in a specific investigation;
- (i) The information is being disclosed to the complainant, the respondent, or another person, under conditions consistent with section 16.8;
- (j) For public comment under section 16.15; or
- (k) As required or permitted by the *Personal Information Protection Act*, S.B.C.2003, c. 63 or other legal requirement.

16.5 In the event that the university is compelled to disclose confidential information, the affected individuals (survivors, those impacted by sexualized violence, or respondents) will be informed to the extent permitted or compatible with the purpose of the demand for information, and can choose to be supported at every step.

16.7 Information may be used among university faculty and staff only if they have a demonstrated need to know the information, such as to facilitate support or interim measures, to respond to a report, implement this policy, or take corrective action resulting from these processes.

16.8 The university may disclose information in order to ensure that reporting processes are fairly conducted, in accordance with the following principles:

- (a) The respondent has the right to know the identity of the person who made the report, the identity of any witnesses, and the material details of the allegations being made;
- (b) The complainant has the right to know the outcome of the investigation, but not the details of any disciplinary actions that may have been taken against the respondent unless disclosing that information is necessary for health or safety reasons or because it affects the survivor or person impacted by sexualized violence; and
- (c) Other persons normally do not have the right to know any confidential information except to the extent required to give effect to this policy or where it is necessary for health or safety reasons.

16.9 Witnesses must keep in confidence any information that they learn solely as a result of the reporting or investigation process.

Third Party Reports

16.11 Information received anonymously or through a third party will be retained for the limited purposes of assessing whether the university should take action, and for compiling statistics. Personal information contained in anonymous or third party reports that are not subject to an investigation will not be retained for longer than necessary to accomplish the above purposes.

Public Statements

16.12 The university does not limit the ability of survivors and those who are impacted by sexualized violence to tell the story of their own experiences.

16.13 Individuals are advised that, should they choose to make public statements about the investigation (including on social or other electronic media), they may be putting themselves at risk of civil lawsuits by those who believe they have been defamed or have had their privacy rights violated. Individuals should exercise care and judgment when deciding to make public statements, and should seek legal or other advice if unsure.

16.14 University community members must not disclose information that they learn solely as a result of an investigation or reporting process, because under BC privacy law this is personal information that must be kept confidential. See the procedures for more detailed information, and contact the University Privacy Officer for guidance about confidentiality and privacy.

16.15 Any public statements made by the university about a disclosure or report, including campus safety bulletins and statements to the media, will be trauma-informed, survivor centred, and otherwise consistent with the principles of this policy, and will not disclose the personal information of the survivor or person impacted by sexualized violence. The university reserves the right to correct misleading or inaccurate public information.

SUPPORT

17. Commitment to Support Survivors and Those Impacted by Sexualized Violence

17.1 The university is committed to supporting all members of the university community who experience or are impacted by sexualized violence, regardless of who they are or where and when the incident occurred.

17.2 The university is committed to maintaining a comprehensive and up-to-date list of on- and off-campus support resources, and making them accessible to all university community members.

17.3 The immediate and longer-term needs of every survivor or person impacted by sexualized violence are unique and hence the pathway through their support options will also be personalized.

17.4 The university acknowledges that every survivor or person who is impacted by sexualized violence will engage with the university and this policy from their unique situation or position. Given existing hierarchies and power dynamics at the university, they may enter the policy at a disadvantage. The university is committed to:

- (a) Recognizing the specific barriers and power relationships that impact a survivor in making a disclosure or report, and devising strategies that take such barriers and power relationships into account;
- (b) Providing supports based on the unique needs of the survivor or person impacted by sexualized violence; and
- (c) Offering consistent, fair, and supportive referrals to on- and off-campus services.

17.5 Support provisions to survivors and those who are impacted by sexualized violence will operate based on the following principles:

- (a) All university community members impacted by sexualized violence can receive support;

- (b) Survivors and those who are impacted by sexualized violence will be able to access support regardless of when, where, or by whom they experienced sexual violence;
- (c) University Contact Persons will work with individual survivors and those impacted by sexualized violence to determine their support needs and assist them in accessing these;
- (d) Survivors and those impacted by sexualized violence who disclose may seek support, but will not be required or pressured to make a report. In some limited cases, the university may be required to take action without the survivor's permission (see section 16). If this is necessary, the individuals affected will be informed in an accessible way and may choose to be supported at every step of any process;
- (e) Survivors and those who are impacted by sexualized violence have the right to determine what and how much they choose to disclose or report about their experience, and to decide whether and how they would like to make a report with the university and/or the police;
- (f) Every reasonable effort will be made to provide survivors and/or students impacted by sexualized violence with the opportunity to retain their status as students and continue with their studies at the university if they wish to do so; and
- (g) Faculty and staff are also able to access support through the Human Resources Office.

17.6 Contact Persons are dedicated to supporting individuals in determining their pathways through support options on- and off-campus. Contact Persons will be trained in survivor-focused and trauma-informed responses to sexualized violence disclosures. In coordination with other offices, they will work with individuals to develop safety plans, access services and supports, and help them navigate any subsequent process in which the individual chooses to participate.

17.7 The university acknowledges that a survivor or person impacted by sexualized violence may find it easier to disclose to a member of the university community whom they trust or with whom they feel safe. Therefore, the university will provide clear information on trauma-informed practices and support options to all members of the university community.

17.8 Respondents may access support based on their individual circumstances. The university will take an intersectional and harm reduction approach to supporting respondents, and acknowledges that some respondents may have experienced sexualized violence themselves. Respondents will be treated fairly and given clear explanations of the processes they are involved in, including options for resolution through a community accountability agreement. Student respondents may request support, and may access Wellness Centre Resources, Student Life staff persons, and the TWUSA Ombudsperson at any time. Employee respondents may request support, and may access Wellness Centre Resources, faculty or staff association representatives, and Human Resources.

17.9 Contact Persons, in coordination with other offices, will work with those impacted by sexualized violence to promote their safety and well-being as members of the university community. This may involve supporting survivors and those impacted by sexualized violence in obtaining academic, non-academic, or employment supports (as described in the procedures) where possible.

18. DEFINITIONS

For the purposes of this policy, the following definitions apply.

“Complainant” means a person who makes a report alleging a violation of this policy.

“Consent” means the voluntary agreement to engage in physical contact or sexual activity and to continue to engage in the contact or activity. Consent means that all persons involved demonstrate, through words or actions, that they freely and mutually agree to participate in a contact or activity. More specifically:

- (a) Consent must be given at the outset and at all stages of physical contact or sexual activity;
- (b) It is the responsibility of the initiator to obtain ongoing consent;
- (c) Consent can be withdrawn at any time by any participant;
- (d) Someone who is incapacitated cannot consent;
- (e) There is no consent where one person abuses a position of trust, power, or authority over another person;
- (f) Past consent does not imply future consent;
- (g) A person cannot give consent on behalf of another person;
- (h) Silence or the absence of “no” is not consent;
- (i) The absence of perceived resistance is not consent; and
- (j) There is no consent when there is coercion, force, threats, or intimidation towards any person, or where there is fraud or withholding of critical information that could affect a person’s decision to consent.

A **“Contact Person”** is a designated TWU employee, trained and available to community members for the purpose of receiving disclosures or reports of sexualized violence and assisting those impacted by sexualized violence with arranging for appropriate academic and non-academic supports. Contact Persons are available to assist TWU community members with navigating both the Sexualized Violence Policy and the Bullying and Harassment Policy, providing assistance if necessary with identifying the policy that best applies in a given situation. Contact Persons may also be appointed as investigators under the provisions of both aforementioned policies.

“Disclosure” means telling someone about an instance of sexualized violence. A disclosure does not initiate an investigation unless a report is made (see section 12 for how to do this).

“Incapacitated” means a person does not have the capacity to give consent because, for instance, the person is impaired by alcohol or drugs, or is asleep or unconscious, or is experiencing a traumatic response. A person does not have the capacity to give consent when the person cannot appreciate the who, what, when, where, why, or how of a physical contact or sexual activity.

“Intersectional” means the ways in which a person’s experiences are shaped by the interaction of different social positions (e.g. sex, sexual orientation, gender identity or expression, Indigeneity, racial and ethnic background, ability, faith, migration status, etc.).

“Respondent” means a person who is alleged to have violated this policy.

To **“report”** an instance of sexualized violence means making a formal report to the university with the intention of initiating an investigation process under section 11.

“Retaliation” means any adverse action or threatened action, taken or made through any means including through social or other electronic media, against a person who engages with this policy or is associated with anyone who engages with this policy. Retaliation includes threatening, intimidating, or harassing conduct that could discourage a person from seeking support or other services, disclosing or reporting sexualized violence, participating in an investigation, or otherwise engaging with this policy.

“Sexual misconduct” means, for the purposes of this policy, any of the acts and behaviours identified in the definition of sexualized violence.

“Sexualized violence” means any non-consensual, unwanted actual, attempted, or threatened act or behaviour, that is carried out through sexual means or by targeting a person sexually, or targeting a person’s sexuality. This act or behaviour may or may not involve physical contact. Sexualized violence includes all forms of sexual misconduct as set out in the *Sexual Violence and Misconduct Policy Act*, S.B.C 2016, c.23 (as amended), including but not limited to:

- (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;
- (h) The attempt to commit an act of sexual violence; or
- (i) The threat to commit an act of sexual violence.

Sexualized violence can take place through any form or means of communication (e.g., online, social media, verbal, written, visual, through a third party, etc.).

“Sexual Harassment” has the meaning given in TWU’s Bullying and Harassment Policy.

“Student” means a person who is registered, enrolled, or participating in any course or program (credit or noncredit) offered by the university;

“Survivors and those impacted by sexualized violence” means survivors and those who have experienced sexualized violence, witnesses, family and friends of survivors and those who have experienced sexualized violence, and those who have received disclosures. It does not mean the respondent or those who are found responsible for causing harm to a university community member. The university recognizes that some people impacted by sexualized violence may not identify with this terminology, and have the right to determine how they will be referred to.

“Survivor-centred” means prioritizing the safety and choices of survivors and those impacted by sexualized violence.

“Trauma-informed” means incorporating an understanding of the impact that sexualized violence has on a person’s life, to minimize re-victimization, and to facilitate recovery and empowerment.

“University activity” means any activity that is directly related to or arising out of the operations of the university at any location, or any activity where a university community member is formally representing the university.

“University community” means:

- (a) Credit and non-credit students, including distance students and continuing studies students;
- (b) Employees, including faculty and staff;
- (c) Anyone holding a university appointment;
- (d) All persons employed under contracts with university faculty members as the employer who provide research or administrative services directly supporting faculty members’ research activities;
- (e) Visiting researchers;
- (f) Anyone contractually required to abide by university policies;
- (g) Anyone volunteering with a university program or activity;
- (h) Members of the Board of Governors; and
- (i) Anyone who ordinarily resides on campus because of their relationship with the university.

19. Stakeholders to be Consulted

- TWU undergraduate and graduate student associations (TWUSA and TWUGSA)
- TWU Staff and Faculty Associations
- Student Life
- University Senate
- President’s Council

20. Monitoring Data

20.1 The President will provide information to the Board of Governors each year on the implementation of this policy. The university will provide an annual update to members of the university community.

20.2 TWU will continue to monitor best practices and research, and will review and update this policy whenever it is reasonable to do so. In any event, the university will review this policy at least once every three years, and when directed to do so by the Minister of Advanced Education.

20.3 Information and records must be retained and disposed of in accordance with the records retention schedule in the Office of the Registrar.

21. Relevant Legislation

- Sexual Violence and Misconduct Policy Act, SBC 2016, c 23
- Freedom of Information and Protection of Privacy Act, RSBC 1996, c 165
- Human Rights Code, RSBC 1996, c 210
- Workers Compensation Act, RSBC 1996, c 492

22. Related Policies and Documents

- Community Covenant
- TWU Student Handbook
- TWU Staff and Faculty Handbooks
- TWU Bullying and Harassment Policy and Bullying and Harassment Procedures
- Workplace Violence Policy
- TWU Privacy Policy

Acknowledgement

In preparation of this document, the TWU Sexualized Violence Policy Working Group wishes to acknowledge their significant use and reliance upon the University of Victoria's Draft Sexualized Violence Prevention and Response Policy 03/2017, with permission.

Resources

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