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3.6.2 SEXUAL AND GENDER-BASED VIOLENCE AND MISCONDUCT PROCEDURES FOR EMPLOYEES AND NON-STUDENTS

ENABLING POLICY

3.6 Sexual and Gender-based Violence and Misconduct Policy

Please refer to this Policy for Definitions.

OBJECTIVE

These Procedures intend to support all Members of the University Community (all current employees including teaching and non-teaching faculty, administrators, staff, contractors, volunteers, and guests), with the exception of students, in understanding and accessing key resources and supports available for safe Disclosure, Reporting and investigation when affected directly or indirectly by Sexual and Gender-based Violence and Misconduct. For employee complaints involving sexual harassment only, Human Resources may determine that these should be addressed under 8.6 Harassment, Bullying + Discrimination Policy.

PROCEDURES FOR SURVIVORS/VICTIMS WHO DISCLOSE OR REPORT SEXUAL AND GENDER-BASED VIOLENCE AND MISCONDUCT

The University recognizes that Sexual and Gender-based Violence and Misconduct can have a traumatic effect on the Survivor/Victim. The University is committed to treating Survivors/Victims with dignity, respect and sensitivity, and will provide appropriate supports in a timely manner.

If you have experienced Sexual and Gender-based Violence and Misconduct, you are encouraged to consider the following steps immediately after the incident:

1. GO TO A SAFE PLACE AND SEEK OUT HELP.

Call 911 and/or go to a safe place such as a shelter or a trusted friend's house. If you are on campus and feel unsafe, contact Safety & Security at 604-844-3838.

2. GET MEDICAL ATTENTION AS SOON AS POSSIBLE.

If possible, it is recommended to obtain medical treatment from a hospital. A Survivor/Victim can access a forensic medical exam up to 1 week after the incident. However, it is recommended that the exam occur within 72 hours.

The following locations are the only hospitals in Vancouver with Sexual Assault forensic teams with specialized staff trained to provide sensitive and confidential care following Sexual and Gender-based Violence.

If you would like accompaniment and support during this process, there are community resources available. Please see step 3 for details.

Sexual Assault Service - Vancouver General Hospital Emergency Department

920 West 10 Avenue

604-875-2881

Open daily, 24 hours

When you arrive at the emergency department, ask for the Sexual Assault Service.

This is a trained forensics team of female nurses, nurse examiners, doctors and counsellors.

Urgent Care Centre - UBC Hospital

2211 Wesbrook Mall

604-822-7121

Open daily, 8am - 10pm

Treatment is offered free of charge and a Care Card/BC Services Card is not required.

3. DISCLOSE AND SEEK SUPPORT

Disclosing Sexual and Gender-based Violence and Misconduct in order to access support and appropriate accommodations does not automatically trigger a Report or an investigation by the University. You will have the choice as to whether and how to make a Report. See Step 4 for more information on Reporting.

a) Seek support from a trusted individual and/or confidential community service.

The following community services are available to provide confidential support including accompaniment and/or transportation to hospital. See full list of resources in the Appendix.

Women Against Violence Against Women (WAVAW) Rape Crisis Centre

24-hour crisis line: 604-255-6344

Toll Free line: 1-877-392-7583

vsp@wavaw.ca

wavaw.ca

Prism Services (LGBT2Q+ education, information, and referral)*

604-658-1214

vch.ca/prism

**Does not provide hospital accompaniment but will provide referrals for appropriate support.*

VictimLink BC (multi-language)

24-hour help line: 1-800-563-0808

b) Seek support from the Employee and Family Assistance Program (EFAP).

Employees are encouraged to seek support from the Employee and Family Assistance Program (EFAP). Appointments are free and confidential.

Shepell Emergency Family Assistance Program (EFAP)

1-800-387-4765

workhealthlife.com

A list of off-campus organizations that can offer support to Survivors/Victims can be found in the Appendix to these Procedures.

c) Contact Emily Carr University Human Resources.

In addition to the above, employees are encouraged to contact the University's Human Resources department for further information on accessing external support services. Emily Carr University employees can make appointments in-person at the Human Resources office, or by calling 604-844-3824, or by emailing hr@ecuad.ca.

4. CONSIDER OPTIONS FOR REPORTING

There are 3 options for Reporting: making a **Report to the University**, making a **Criminal Report**, or making a **Third-Party Report**.

The Survivor/Victim will be the final decision-maker regarding their own interests. The University is committed to respecting the decisions of the Survivor/Victim unless their safety or that of the greater University Community is at risk and/or where the University has a legal obligation to act. In these circumstances, the University reserves the right to initiate an investigation or to report the incident to the appropriate authorities.

Confidentiality in the Reporting Process

Reports of Sexual and Gender-based Violence and Misconduct involve the investigation, disclosure and collection of sensitive personal information about the Complainant and the Respondent. While discretion will be exercised to the maximum degree possible to protect the reputations and interests of all individuals, strict confidentiality during Reporting may not be feasible.

All parties involved in a Sexual and Gender-based Violence and Misconduct investigation are expected to keep all information pertaining to the investigation confidential other than to seek representation, counselling or to share it in the course of the investigation with an appointed investigator.

In the case of a Respondent who is a University employee, confidentiality will be managed within the context of an investigation that the University may be required to conduct in order to meet its legal obligations or obligations set out in applicable collective agreements.

Support during Reporting

If the Complainant decides to make a Criminal or Third Party Report, a member of the CARE Team can accompany them to the police station or have police attend to campus. If criminal charges are laid, the Associate Vice-President (AVP), Human Resources and/or a member of the CARE Team can act as a liaison with the police and inform the Complainant of progress in the criminal case, unless reporting restrictions (sealing orders or other restrictions) have been imposed.

Option 1: REPORT TO THE UNIVERSITY

A Report to the University is made to seek action on the part of the University, in the form of an investigation into a Report. When a Report is made, the University will provide the same supports and services to the Complainant described above in relation to the process of making a Disclosure.

If you are an employee or non-student and would like to make a Report to the University, contact the following CARE Team member:

- Associate Vice President, Human Resources: 604-844-3803

In cases where there is a Conflict of Interest with a member of the CARE Team or where there is an absence, an appropriate designate will be assigned.

Notify Safety & Security (604-844-3838) if:

- there is an immediate threat to the University Community; and/or
- there is a risk of harm to self or others.

The University does not have the authority or jurisdiction to take action against a non-Member of the University Community. However, in certain circumstances, the University may take action to prohibit the non-Member Respondent's access to the University's properties and events, where it is deemed necessary and reasonable to do so in order to protect Members of the University Community.

The University may impose or facilitate interim measures on either the Complainant or the Respondent, whether student or employee, pending the conclusion of an investigation into a Report.

Depending on the circumstances, responses to a Report may include, but are not limited to the following:

- Permission to miss work (to meet with those involved in responding to the incident, a victim services worker, or a counsellor) or provision of a temporary work reassignment or scheduling change(s).
- "No contact" undertaking with the Respondent, on-or-off campus safety planning, and/or other workplace accommodations.

- Campus Security may impose or facilitate interim measures to restrict access to some University facilities by the Respondent where the University determines there may be a safety risk.
- An investigation in cases where a Complainant and Respondent are both members of the University Community.

Investigations

When the CARE Team receives a request for an investigation into a Report, or has reason to recommend an investigation into a Report be initiated, the CARE Team will review the Report and determine whether the allegations fall within the scope of the Policy and whether the University has jurisdiction to investigate.

All investigations under the Policy involving employees will be conducted in accordance with any applicable processes set out in applicable collective agreements.

- Where a determination that a formal investigation should be initiated, the AVP Human Resources will engage an external investigator to initiate an investigation.
- The University will ensure that any investigator engaged to investigate complaints of Sexual and Gender-based Violence and Misconduct must have appropriate training in understanding and investigating Sexual and Gender-based Violence and Misconduct.
- Where investigations are initiated, the AVP Human Resources will inform all parties in writing at the outset of any investigation.
- The Complainant and the Respondent have the right to be represented at any stage of these procedures by a formal representative or support person. The Complainant and the Respondent will be so informed.
- The Respondent shall be provided with a report and a copy of the Policy and will have the opportunity to respond in writing, attaching any relevant documents and listing any witnesses that the Respondent believes have relevant evidence to give.
- The University may not be able to proceed with an investigation if the Complainant is no longer a member of the University Community or is not

prepared to cooperate in the investigation, unless it is determined that the University is required by law to conduct an investigation.

- A Complainant may withdraw from an investigation by making a formal request to the CARE Team or AVP Human Resources at any time. The University may be required by law to proceed with the investigation.
- If criminal, civil, or administrative proceedings are undertaken, the University reserves the right to proceed with, defer or suspend its own investigative processes. Where possible, the University will discuss this with the Complainant ahead of making a decision.
- If the Complainant or the Respondent refuses to cooperate with the investigator, the investigator may either proceed with the investigation or make a recommendation to the AVP Human Resources regarding further action. The AVP Human Resources will have the discretion to determine the next steps, based on the recommendation of the investigator and consideration of any legal obligations on the part of the University.
- Upon suspension or cessation of an investigation, all parties will be notified.
- If more than one Report has been made about a Respondent, the AVP Human Resources may determine that a single investigator be used to investigate all Reports pertaining to that Respondent.
- The investigator will establish an investigation process based on expectations outlined by the University in accordance with policy. The investigator is therefore responsible for interpreting the provisions of any applicable policy, subject to compliance with the Principles of Procedural Fairness. The investigator has the discretion to develop their own procedures and practices to conduct the investigation, including a determination as to which witnesses to interview. And, the investigator is not constrained by strict rules of procedure and evidence.
- Investigations will:
 - be undertaken promptly and diligently and be thorough;
 - be fair and impartial, providing both the Complainant and Respondent equal treatment in evaluating the allegations;

- be sensitive to the interests of all parties involved;
 - be focused on finding facts and evidence, including interviews of the Complainant, Respondent and any witnesses; and
 - incorporate, where appropriate, any need or request from the Complainant or Respondent for assistance during the investigation process.
- The investigator will interview the Complainant, the Respondent and any witnesses the investigator believes may have information relevant to the complaint. The investigator will review any documents they consider relevant.
 - After completion of the investigation, the investigator will prepare a written report setting out:
 - the evidence considered and the investigator’s findings of fact regarding the allegations contained in the Report;
 - the investigator’s determination as to whether or not there has been a violation of the Policy; and
 - any mitigating or aggravating circumstances to be considered.
 - The investigator’s report will be delivered to the AVP Human Resources.
 - The investigator’s report will be kept confidential and will not be disclosed to the parties, except where required by applicable collective agreement provisions or by law. In the event that the report is required to be disclosed, measures will be taken to protect the privacy and confidentiality of personal information of the parties contained in the report to the extent reasonably possible, in accordance with applicable privacy legislation.
- i. Remedial Actions and Sanctions**
- The AVP Human Resources will review the investigator’s report and may consult with the Executive leadership and the CARE Team. Only information that is necessary to make a decision regarding remedial actions or sanctions will be shared with the appropriate Executive leader(s).
 - If the investigation determines that the Sexual and Gender-based Violence and Misconduct Policy has been violated, the appropriate Executive leader(s) will do the following:

- Obtain and review any previous record(s) of resolution involving the Respondent;
 - The AVP Human Resources will consult with the appropriate Executive leader(s) to make a decision regarding remedial action, if any, to be imposed on the Respondent;
 - If the Respondent is a student, the AVP Human Resources will consult with the Executive Director, Student Services + Registrar or designate, who will review the Respondent's student file and recommend sanctions up to suspension. Where the violations are deemed to require suspension, the President and Vice-Chancellor will impose such sanctions in accordance with University Policies and the University Act.
 - Ensure that the AVP Human Resources advises the Complainant regarding any remedial actions or sanctions that directly affect the Complainant. In most cases, the Complainant will not be advised of any disciplinary measures taken against the Respondent.
 - Prepare a written record of resolution which will be provided to the Complainant and the Respondent and the Union, where applicable (edited as necessary to protect confidentiality in accordance with applicable privacy legislation), and filed in the Respondent's personnel or student file.
- Where an investigation finds that a Report was made in Bad Faith, the appropriate Executive leader may take appropriate action, up to and including discipline or termination of employment where the Complainant is an employee. Where the Complainant is a student, sanctions will be considered in line with 4.6 Student Conduct Policy.
 - If the investigator finds that a policy violation has not occurred, the AVP Human Resources will dismiss the complaint and prepare a written record of resolution, which will be provided to the Complainant and the Respondent.
- ii. Appeal**
- A Respondent has the right of appeal as defined by the applicable Collective Agreements.

Option 2: CRIMINAL REPORT

Any Member of the University Community may at any point contact the Vancouver Police Department, or other law enforcement agency, for information related to the investigative process, filing a complaint, and/or pressing criminal charges. The University can provide support to the individual complainant in facilitating a Criminal Report and will cooperate with any criminal investigation, but the University's own investigation process may be impacted or suspended by any criminal investigations or proceedings.

Option 3: THIRD PARTY REPORT

An individual may choose to make an anonymous Report to the police without making an official statement. A Third Party Report must be submitted through a community-based support worker. This type of Report does not launch an official police investigation but it can help in identifying repeat Respondents. Contact Women Against Violence Against Women (WAVAW) at 604-255-6344 for support filing a Third Party Report.

If someone Discloses to you that they have experienced Sexual and Gender-based Violence and Misconduct, consider the following:

A Survivor/Victim who has experienced Sexual and Gender-based Violence and Misconduct will most often first tell someone they know. Therefore, all Members of the University Community are potential First Responders. Any First Responder must inform Counselling Services, where the Survivor/Victim is a student, or Human Resources, where the Survivor/Victim is a non-student. These departments have personnel who are trained to receive Disclosures and provide resources to First Responders for next steps, including help in receiving support and information regarding Reporting. A First Responder may inform Counselling Services or Human Resources about receiving a Disclosure without sharing the identity of the Survivor/Victim making the Disclosure if they do not have the consent of the Survivor/Victim, and without sharing the identity of the Respondent, except in such cases where a counsellor or Human Resources staff member determines that:

1. There is a likelihood of a person endangering self or others;
2. There is abuse of a minor indicated; and/or
3. There is a legal proceeding and the adjudicative body subpoenas the counsellor/Human Resources staff member and/or their notes, or disclosure is otherwise required by law.

With respect to Disclosures made to Members of the University Community who are not counsellors, confidentiality cannot be guaranteed; however, discretion will be exercised to the maximum degree possible to protect the anonymity of the Complainant and Respondent.

What to do if a Member of the Emily Carr Community Discloses allegations of Sexual and Gender-based Violence and Misconduct.

A Survivor/Victim who has experienced Sexual and Gender-based Violence and Misconduct may choose to Disclose this information to someone they trust in order to receive support. The decision to Disclose is not the same as the decision to Report. The following list includes recommended responses to a Disclosure:

- listen without judgment; avoid questioning, blaming or telling the Survivor/Victim what to do;
- ask the Survivor/Victim if they are currently staying in a safe place and if they need medical attention;

- help the Survivor/Victim to identify and/or access available on or off campus services, including emergency medical care, counselling, or the resources set out in the Appendix;
- respect the Survivor/Victim's right to choose the services they feel are most appropriate and to decide whether to Report to the police;
- recognize that Disclosing can be traumatic, and an individual's ability to recall the events may be limited;
- recognize that an individual has the right to self-identify as a Survivor/Victim or to use any other term that they feel identifies their experience.

The term Survivor/Victim is often used to identify someone who has been sexually assaulted. While not everyone chooses this term to apply to their experience, this term is broadly used within antiviolence movements today to recognize the strength and resilience of those who live every day with the impact of having been sexually assaulted.

What to do if a Member of the Emily Carr Community witnesses an act of Sexual and Gender-based Violence and Misconduct.

Where Members of the University Community witness acts of Sexual and Gender-based Violence and Misconduct, they should determine whether individuals are in distress requiring emergency services and if so, they should immediately contact emergency services (911 and Campus Security).

If a University employee witnesses an act of Sexual and Gender-based Violence and Misconduct, they must report the incident to the CARE Team. If the witness is a non-employee, the CARE Team will endeavor to secure a report of the incident from the relevant witness(es) and/or emergency services responder(s).

APPENDIX

Resources On-Campus

To call Campus Security: **dial 3838 (internal) or 604-844-3838**

For student Disclosures, you can reach the Counselling Services Office by phone, email or in-person in Student Services.

Counselling Services

604-630-4555

counselling@ecuad.ca

For employee and non-student Disclosures, contact the Employee CARE Team HR member:

Associate Vice President, Human Resources

604-844-3803

Resources Off-Campus

To call your local police department: **dial 911**

24-hour Crisis Centre

604-872-3311

For employee and non-student Disclosures, contact the Emergency Family Assistance Program (EFAP) Counselling Services:

Shepell Emergency Family Assistance Program (EFAP)

1-800-387-4765

workhealthlife.com

A Survivor/Victim who has experienced Sexual and Gender-based Violence and Misconduct can access a forensic medical exam up to 1 week after the Sexual Assault. However, it is recommended the exam occur within 72 hours.

The following locations are the only hospitals with Sexual Assault forensic teams with specialized staff trained to provide sensitive and confidential care following a Sexual Assault. When you arrive at the emergency department, ask for the Sexual Assault Service:

Emergency Department - Vancouver General Hospital (VGH)

920 West 10th Avenue

Open daily, 24 hours

604-875-2881

Urgent Care Centre - UBC Hospital

2211 Wesbrook Mall

Open daily, 8am - 10pm

604-822-7121

Female patients may arrange for a **Women Against Violence Against Women (WAVAW)** worker to accompany them to either hospital. Please call 604-255-6344.

Women Against Violence Against Women (WAVAW) Rape Crisis Centre

24-hour crisis line: 604-255-6344

Toll free line: 1-877-392-7583

wavaw.ca

VictimLink BC (multi-language)

24-hour help line: 1-800-563-0808

BC Society for Male Survivors of Sexual Abuse

604-682-6482

bc-malesurvivors.com

MOSAIC Multicultural Victim Services (multi-language)

604-254-9626

mosaicbc.com

Weekdays, 9am-5pm

Prism Services (LGBT2Q+ education, information, and referral)

604-658-1214

vch.ca/prism

Trans Lifeline (by and for the transgender community)

24-hour crisis line: 1-877-330-6366

translifeline.org

Qmunity Counselling (for queer, trans, and Two-Spirit communities)

604-684-5307

qmunity.ca