

Policy Statement on Sexual Violence in Post-Secondary Institutions

The prevention and eradication of sexual violence in the workplace is an issue of importance to all members of the post-secondary education community, including academic staff. Many forms of sexual violence are criminal acts. In some provinces, legislation requires employers to address sexual violence through the development of policy. In other cases, employers are voluntarily developing policies and procedures on sexual violence. In all cases, sexual violence policies and procedures should be developed with collegial participation and include clear definitions and guidelines that protect the rights of academic staff. Policies should explicitly address the importance of a violence free workplace to safeguarding academic freedom. Academic freedom can only flourish in an environment free of harassment and violence. In all cases where there is a collective agreement, the procedures in the agreement must be followed.

Sexual violence policy should never be part of an omnibus harassment policy. Violence is not simply a form of harassment. While sexual violence may be restricted to non-consensual physical acts or threats of physical acts, of a sexual nature, harassment is a broad term covering a range of conduct that is unwelcome in the workplace. Although a sexual violence policy may be required by law to cover sexual harassment and other discriminatory behaviours involving students, all forms of harassment should not be subject to the same policy or procedures. A general harassment policy should exist separate and apart from the sexual violence policy. For this reason a sexual violence policy should be a stand-alone policy with stand-alone procedures.

Sexual violence policies should include the following:

1

A clear and concise definition of sexual violence as the exercise of physical force or coercion, an attempt to exercise physical force, or a statement or behavior that could reasonably be interpreted as a threat to exercise physical force through sexual means, regardless of the degree of force. In provinces where a sexual violence policy is required by law, the definition in the policy should align with that in the statute. A policy should not expand the statutory definition or reach beyond the intended scope of the law.

2

Procedures for reporting allegations of incidents of sexual violence that are clear, explicit and confidential. Procedures should include provision for immediate support of complainants, informal and formal resolution, and timely and confidential investigation and reporting. Where academic staff are involved, procedures should include the notification of the Academic Staff Association about the allegation as soon as possible after receipt. Academic staff, whether complainant or respondent, must be advised of their right to consult the Academic Staff Association and to be accompanied by a representative in any proceeding.

3

Procedures for cases where interim measures are required to deal with the respondent. Such measures must be appropriate and proportional to the situation. Academic staff accused of sexual violence should not be relieved of their duties, denied access to campus, nor denied any other right unless there is clear and compelling evidence that the individual's presence is a threat to the safety of the academic community. If relieved of their duties, full pay and benefits should continue until

the situation is resolved. Any decision to relieve an academic staff member of his/her duties or to deny access to campus must be subject to grievance procedures.

4

Protection for academic staff who receive confidential reports of allegations. While it is important that bystanders report sexual violence, academic staff may be consulted about an incident by colleagues or others who do not wish to take action or bring a complaint forward. In these instances, unless required by law, policy should not require the academic staff member to report the allegation. It is sufficient for the academic staff member to ensure that the potential complainant understands where and how to make a complaint. To that end, academic staff should receive adequate training on what to do if approached with a complaint, and the requirements of their institution's sexual violence policy.

5

Procedures for investigating allegations of sexual violence, where an investigation is requested by the Complainant or required by law. Investigatory procedures must recognize the importance of safeguarding academic freedom and procedural fairness. Investigations must be timely, transparent, and confidential. Anonymous material should be prohibited. Respondents should have access to all materials relied upon in an investigation. All parties involved should have access to legal or other representation throughout the process.

6

Confidentiality provisions that protect the privacy of the complainant and the respondent. Respondents should have access to the identity of the complainant.

7

Provision for the Association to receive notice of complaints involving academic staff and be informed at every stage of the process.

8

Acknowledgement that any discipline arising from an investigation will be subject to the discipline clause of the collective agreement.

9

Recognition that all procedures, investigations and discipline are subject to grievance and arbitration.

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