

## Sexual Violence Policy

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| Category:       | Health, Safety, and Security   |
| Number:         | HS10A  |
| Responsibility: | Director of People & Culture   |
| Approval:       | January 2022, Board of Governors   |
| Amendments:     | To be reviewed every 3 years or as circumstances or legislation warrants |

### POLICY STATEMENT

All members of the Algoma University community have the right to work and study in an environment that is free from any form of sexual violence. Sexual violence of any kind is unacceptable and will not be tolerated. This policy's intention is to make individuals feel safe and enable them to make a report in good faith about sexual violence that they have experienced or witnessed. Individuals and groups who commit or attempt to commit acts of sexual violence will be held accountable through a process that ensures procedural fairness.

We recognize that any form of sexual violence can occur between individuals regardless of sexual orientation, gender, gender identity or relationship status, as articulated in the Ontario Human Rights Code. We also recognize that individuals who have been affected by any form of sexual violence may experience impacts that are emotional, academic or social.

To create a campus environment where sexual violence is not tolerated, a Sexual Violence Taskforce has been developed. The committee works collaboratively towards effective change at the individual, institutional and cultural levels, with the goal of creating a safer campus environment for the Algoma University community.

### SCOPE

This Policy applies to all members of the University community: students, staff, faculty, administration, members of the Board of Governors, visitors, and guests. All members of the University community have a responsibility to uphold the principles outlined in this policy.

The Sexual Violence Policy addresses incidents that occur on Algoma University's campus(s) or at an University approved event/activity. Support (*excluding investigations*) provided under this policy are available to all members of the university community whether the event occurred on or off-campus.

### PURPOSE

Algoma University recognizes the challenges faced by those who have experienced all forms of sexual violence, and urges individuals to make use of the supports available to them. All those who have experienced any form of sexual violence have a right to:

1. be believed, and treated with compassion, dignity and respect;
  - a. ensure survivors who are disclosing, accessing support and/or reporting incidents of sexual violence will not be asked irrelevant questions such as past sexual history or sexual expression.
2. be informed about on-campus and off-campus (community) services and resources;
3. decide whether to report the incident to Student Success, Human Resources, campus security, and/or the local police;
4. be provided with assistance in formulating a safety plan;
5. be provided with necessary appropriate accommodations including but not limited to:
  - a. unwanted contact with the perpetrator if the perpetrator is a member of the campus community;
  - b. appropriate academic and/or work accommodations.
6. a fair and unbiased on-campus investigation with the full cooperation of the institution, if applicable as outlined in the Scope of this Policy;
7. choose amongst these supports, selecting all, some, or none of the above options.

Individuals who wait to initiate a complaint must understand that in the absence of an investigation and/or a finding of wrongdoing, there may be a limit to the scope of possible remedial actions.

Algoma University reserves the right to initiate an internal investigation and/or inform the local police of the need for a criminal investigation, even without the consent of the individual who experienced sexual violence, when the safety of the university community is believed to be at risk or to comply with any legal requirements it may have. The individual will be advised of the disclosure.

In addition, Algoma University is committed to:

- responding to sexual violence as outlined in this policy;
- ensuring survivors acting in good faith, would not be subject to actions for violations of the institution's policies related to drug and alcohol use at the time of the alleged sexual violence incident;
- educating and training the University community about prevention, how to assess situations for risk for sexual violence and about how to reduce and prevent these forms of violence and harassment;
- working closely with student groups such as Algoma University Students Union (AUSU), Shingwauk Anishinaabe Students Association (SASA) and peer mentors on sexual violence prevention;
- maintaining annual statistics on disclosed and reported incidents of sexual violence on campus for the purposes of community education and legislated reporting that may be required. This data will not include any information that would identify any community member and is the responsibility of Human Resources and Student Success and Wellbeing.

## **CONFIDENTIALITY**

Ensuring confidentiality is a key principle in creating an environment and culture where survivors feel safe to disclose and seek support and accommodation. The University is committed to ensuring such an environment and culture exists. As such, all members of the Algoma University community who receive a disclosure of sexual violence or who are involved in addressing or investigating the incident(s), must keep the matter confidential, (except in accordance with the terms of this policy), in order to protect the rights of those involved in the allegations, prevent an unjustified invasion of personal privacy, and preserve the integrity of the investigation.

The University will make every reasonable effort to balance confidentiality with its legal responsibility to provide a campus environment free from sexual violence. The University protects personal information and handles records in accordance with its policies, the Freedom of Information and Protection of Privacy Act, the Personal Health Information Protection Act, and the provisions of applicable employee collective agreements.

Notwithstanding the above, there are additional circumstances where the Response Team (comprised of Human Resources, Student Experience and Student Success and Wellbeing) may be required to disclose information within or outside the University in order to address safety concerns or to satisfy a legal reporting requirement. In such

circumstances, the minimum amount of information needed to allow such concerns to be addressed, or meet such requirements, will be disclosed. These additional circumstances might include:

- an individual is at risk of life-threatening self-harm;
- an individual is at risk of harming others;
- there is an identified risk to the safety of the university and/or broader community;
- there is evidence of sexual violence in the public realm (such as videos posted on social media).
- disclosure is required by law; for instance, under the Child and Family Services Act, reporting is legally required if an incident involves a child 16 or under; or, to comply with the Occupational Health and Safety Act or with Human Rights Legislation.

These above circumstances represent exceptions, not the rule, and are necessary to ensure the University is meeting its legal obligations. If one of these situations applies to an individual, they will be fully informed and supported at every step of the process.

## REPORTING AND RESPONDING TO SEXUAL VIOLENCE

Any member of the University community who becomes aware of, or witnesses an incident of sexual violence has a responsibility to report the behavior. In all instances, if a community member witnesses an incident of sexual violence, the survivor should be advised that a report will be made and they should be encouraged to file a report themselves. If the survivor has not given their express consent to disclose, the survivor's name will be kept anonymous. Members who have been affected by sexual violence are encouraged to come forward to report as soon as they are able to do so.

A report of sexual violence can be filed under this policy by any member of the University community. The decision making power is always with the survivor about whether they would like to disclose to anyone. If they choose to disclose, they also decide which type of report they would like to make. This includes the choice to file an informal, formal and/or police report.

Measures to ensure the emotional and physical safety of the survivor can and will be made.

The University will seek to achieve procedural fairness in dealing with all reports. As such, no sanction and/or disciplinary action will be taken against a person or group without their knowledge where there is a reported breach of this policy. Respondents will be given reasonable notice, with full details of the report, and provided with an opportunity to answer to the report(s) made against them.

## SEXUAL VIOLENCE TASKFORCE

The Sexual Violence Taskforce is a University committee comprised of students and employees (Faculty, Staff, Administration) who together will make recommendations regarding the University's Policy on Sexual Violence and coordinate efforts regarding resources to prevent university sexual violence. The committee works collaboratively towards effective change at the individual, institutional and cultural levels, with the goal of creating a safer campus environment for the Algoma University community.

The specific roles of the Committee will be to:

- annually review and make recommendations, if necessary, concerning the *Sexual Violence Policy*;
- make recommendations on existing programs, services, resources and protocol implementation;
- make recommendations regarding training and educational initiatives;
- improve communication and information-sharing among campus partners and allies; and
- provide a forum to discuss emerging issues and initiatives related to sexual violence.

The Committee will be composed of the following members:

- Faculty Resource(s)

- Director, Student Success and Wellbeing
- Human Resources & Employee Relations Officer
- Director, Shingwauk Residential Schools Centre and/or Representation from the Anishinaabe Initiatives Division team
- Student(s) Representatives (AUSU/SASA representation, International Student representation, Residence Advisor)
- Campus Life Coordinator
- Community Representative(s)

## RELATED DOCUMENTS

The university has a number of related policies, procedures including, but not limited to:

- Sexual Violence Procedures
- Health and Safety Policy
- Student Code of Conduct (Non-Academic)
- Workplace Violence and Harassment Policy and Program
- Human Rights Policy & Procedures
- Code of Conduct - Respectful Workplace Policy
- Student Athlete Code of Conduct

## APPENDIX: DEFINITIONS

**Complainant** is the person who reports a policy infraction, in this case, a person who reports sexual violence that they have been affected by.

**Consent** subsection 273.1(1) of the Criminal Code of Canada, defines consent as the voluntary agreement of the complainant to engage in the sexual activity in question. Conduct short of a voluntary agreement to engage in sexual activity does not constitute consent as a matter of law.

For greater certainty, subsection 273.1(2) sets out specific situations where there is no consent in law; no consent is obtained:

- where the agreement is expressed by the words or conduct of a person other than the complainant
- where the complainant is incapable of consenting to the activity
- where the accused induces the complainant to engage in the activity by abusing a position of trust, power or authority
- where the complainant expresses, by words or conduct, a lack of agreement to engage in the activity, or
- where the complainant, having consented to engage in sexual activity, expresses, by words or conduct, a lack of agreement to continue to engage in the activity.

**Consent must be informed, freely given and active, and ongoing.**

**Respondent** is the person who is responding to a report of a policy infraction. In this case, a person who is responding after being named in a report of sexual violence.

**Sexual Assault** is a criminal offence under the Criminal Code of Canada. Sexual assault is any type of unwanted sexual act done by one person to another that violates the sexual integrity of the victim and involves a range of behaviours from any unwanted touching to penetration. Sexual assault is characterized by a broad range of behaviours that involve the use of force, threats, or control towards a person, which makes that person feel uncomfortable, distressed, frightened, threatened, that is carried out in circumstances in which the person has not freely agreed, consented to, or is incapable of consenting to.

**Sexual Harassment** is defined in the Criminal Code as a course of vexatious comment or conduct of a sexual nature that is known or ought reasonably to be known to be unwelcome.

**Sexual Violence** means any sexual act or act targeting a person's sexuality, gender identity or gender expression, whether the act is physical or psychological in nature, that is committed, threatened or attempted against a person without the person's consent. It includes sexual assault, sexual harassment, stalking, indecent exposure, voyeurism and sexual exploitation. Instances of sexual violence covered by this policy include those that occur in person or online.

Sexual violence consists of a range of behaviors that vary in severity. The term includes, but is not limited to, sexual violence, sexual harassment, sexual assault, the threat of sexual assault, criminal harassment (including stalking and cyber harassment), and relationship violence.