



# Sexual and Gender Based Violence Response Policy

**Category:** General;

**Jurisdiction:** Vice President, Administration and Finance; Board Audit & Risk Committee;

**Approval Authority:** Board of Governors;

**Established on:** December 21, 2016 (approved by Executive Committee on behalf of the Board);

**Amendments:** March 7, 2018; February 24, 2022.

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## 1. Preamble

- 1.1. Lakehead University (“the University”) is committed to maintaining a healthy and safe learning, living, social, recreational and working environment for all members of its diverse community. The University strives to foster an atmosphere of healthy attitudes and behaviours towards sexuality, sex and gender roles. The University also recognizes that all violence, in particular sexual and gender based violence, is rooted in the abuse of power and thus persons with less societal power have increased vulnerability.
- 1.2. All forms of sexual and gender based violence jeopardize the welfare and safety of the community and efforts to address sexual and gender based violence must be grounded in the recognition of the disproportional effects on equity-seeking groups. Therefore, some acts of sexual and gender based violence are also acts of sexism, racism, ableism, homophobia, transphobia or their intersections. Sexual and gender based violence violates the Ontario Human Rights Code and the University’s institutional values, in particular, the right of all individuals to be treated with dignity and respect. Lakehead University will not condone or tolerate any form of sexual and gender based violence. The primary focus of this Sexual and Gender Based

Violence Response Policy (the “Policy”) is on the University’s response to sexual and gender based violence.

- 1.3. The purpose of the Policy is to articulate the University’s commitment to supporting Survivors of sexual and gender based violence and addressing incidences of sexual and gender based violence. Specifically, this Policy sets out:
  - a) The University’s principles around sexual and gender based violence including confidentiality;
  - b) The supports and services available for Survivors on Campus and in the community;
  - c) The supports associated with sexual and gender based violence Disclosure;
  - d) The accommodations (academic and otherwise) available for Survivors of sexual and gender based violence;
  - e) The Complaint process for sexual and gender based violence;
  - f) The University’s education and training function; and
  - g) The means by which this Policy will be reviewed and reported.

## 2. Scope

- 2.1. This Policy applies to all University Community Members. This Policy applies on all University Campuses and at all University sponsored activities and events including without limitation cooperative or college placements, sporting events and gym memberships. This Policy applies if the person affected by sexual and gender based violence is a University Community Member – irrespective of where the sexual and gender based violence occurred and irrespective of whether the person accused of sexual and gender based violence is a University Community Member. This Policy applies if the person accused of sexual and gender based violence is a University Community Member – irrespective of where the sexual and gender based violence is alleged to have occurred and irrespective of whether the subject of the alleged sexual and gender based violence is a University Community Member. Thus this policy applies to any person wishing to make a complaint of Sexual and Gender Based Violence against a Lakehead University Community Member.

- 2.2. A Complaint may be filed with the Office of Human Rights and Equity only if the Respondent is a University Community Member.

### 3. Sexual and Gender Based Violence

- 3.1. In this Policy, sexual and gender based 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, and includes sexual assault, sexual harassment, stalking, indecent exposure, voyeurism and sexual exploitation.
- 3.2. This policy acknowledges that sexual and gender based violence is a global problem endemic to all cultures and societies, including university communities.
- 3.3. The terms: gender identity, gender expression, gendered violence, sexual assault, sexual harassment, stalking, sexual cyber harassment, indecent exposure, voyeurism, sexual exploitation, consent and intoxication are defined in Appendix "A" to this Policy.

### 4. Definitions

- 4.1. The following definitions apply to this Policy.
- 4.2. **Allege (a wrong-doing):** To claim or assert that someone has done something wrong, before it has been proven through a legal or authoritative process.
- 4.3. **Appropriate Manager/ Supervisor:** the person in a direct position of authority over a Respondent who is also an Employee of the University.
- 4.4. **Bystander:** A Bystander is anyone who is in a position to intervene before, during or after the action(s) of sexual and gender based violence and includes those who receive a Disclosure of sexual and gender based violence. A Bystander is neither a person who is the subject of sexual and gender based violence nor a person accused of sexual and gender based violence.
- 4.5. **Campus:** Includes all grounds and buildings administered by the University, including all physical and digital spaces that are administered by the University.
- 4.6. **Complainant:** a victim or Survivor of sexual and gender based violence or the University who files a Complaint under this Policy.

- 4.7. **Complaint:** A written complaint of sexual and gender based violence filed by a Complainant in accordance with paragraphs 11.1.1 and 11.1.2 of this Policy.
- 4.8. **Disclosure:** When a person tells a University Community Member that they have experienced or witnessed sexual and gender based violence involving a University Community Member.
- 4.9. **Employee:** Includes all persons who are in an employment relationship with the University, including but not limited to: all administrators, faculty, staff, research assistants, tutorial assistants and coaches.
- 4.10. **Interim Measures:** means temporary measures that the University may take in order to protect the safety of a University Community Member or protect them from reprisal or threat of reprisal for making use of this Policy.
- 4.11. **Intersectionality:** The interconnected nature of grounds of discrimination such as gender or race or disability that creates overlapping and often additional systems of disadvantage.
- 4.12. **Ministry** means the Ministry of Advanced Education and Skills Development, and **Minister** means the Minister of the Ministry.
- 4.13. **Report:** A written statement to the Office of Human Rights and Equity accounting an incident of sexual and gender based violence.
- 4.14. **Respondent:** A person who has been accused of committing sexual and gender based violence. The person accused is the Respondent in a Complaint involving sexual and gender based violence.
- 4.15. **Student:** includes all undergraduate and graduate students enrolled in a degree or a certificate program at the University and includes those enrolled in on-line learning as well as those registered in English Language studies.
- 4.16. **Support Person:** Any person who provides psychological or emotional support to a Survivor.
- 4.17. **Survivor:** A University Community Member who has experienced or been negatively impacted by sexual and gender based violence.
- 4.18. **University Community Members:** Refers to Students, Employees, union and non-union staff, faculty, administration, Senators, members of the Board of Governors,

volunteers, contractors, suppliers, post-doctoral fellows, and visitors to Lakehead University and others who are on Campus.

## 5. Principles and Interpretation

5.1. The University is committed to the principles set out below. The interpretation of this Policy should be based on these principles:

- a) Ensuring that a Survivor-centred approach is followed. This means believing and respecting all individuals who identify their experience of sexual and gender based violence as being the best judge of their own interests and ensuring where possible that their wishes are considered. A Survivor-centred approach ensures that victims/Survivors are neither blamed nor shamed but are supported and empowered in processes that affect them;
- b) Recognizing that an individual may not identify with either the label “victim” or “Survivor”, and respecting each individual’s preferred term in interactions with that individual;
- c) Ensuring that those who disclose sexual and gender based violence of any kind are treated with dignity and respect;
- d) Respecting the rights and intersectional realities of equity-seeking groups;
- e) Assisting those affected by sexual and gender based violence in obtaining counseling and medical care, whether on or off Campus;
- f) Providing those affected by sexual and gender based violence with appropriate academic and other accommodation(s);
- g) Providing those affected by sexual and gender based violence with information about their options under this Policy and outside of this Policy;
- h) Maintaining confidentiality of those who have made a Disclosure, Report or Complaint of sexual and gender based violence, to the greatest extent possible;
- i) Ensuring University investigation and adjudication procedures are available in accordance with this Policy;
- j) Ensuring that the procedures under this Policy afford appropriate procedural fairness to all affected parties throughout all processes under this Policy;

- k) Providing education and training opportunities to University Community Members about responding to Disclosures of sexual and gender based violence; and
- l) Providing educational opportunities and information to University Community Members about how to identify situations that involve, or could progress into, sexual and gender based violence and about how to reduce and prevent these forms of violence and harassment.

## 6. Confidentiality

- 6.1. The confidentiality of those who have made a Disclosure, a Report or a Complaint of sexual and gender based violence shall be safeguarded, to the greatest extent possible.
- 6.2. If an investigation or other proceeding is carried out pursuant to this Policy, the names of those involved will not be released except as required pursuant to this Policy or as required by law.
- 6.3. Confidentiality may be limited where:
  - a) There are reasonable grounds to believe that an individual is at imminent risk of self-harm;
  - b) There are reasonable grounds to believe that one or more persons in the University or wider community may be at risk of harm;
  - c) Reporting is required by law;
  - d) A non-anonymous Complaint has been filed and thus would be shared to a limited number of people directly involved with processing the Complaint; or
  - e) An accommodation, support or service is being provided.

## 7. Supports, Services and Accommodations (Academic and Otherwise)

7.1. The supports and services for those affected by sexual and gender based violence (including the subject of the sexual and gender based violence and Bystanders) that are available on Campus and within the communities of Thunder Bay and Orillia are set out, together with contact information, in Appendix “B” to this Policy.

- 7.2. University Community Members affected by sexual and gender based violence and who need assistance to access the supports and services outlined in Appendix “B” to this Policy may seek assistance directly from the support or service provider or through the Office of Human Rights and Equity.
- 7.3. University Community Members who are affected by sexual and gender based violence and require accommodations (academic and otherwise) will be appropriately accommodated and should seek accommodations through the Office of Human Rights and Equity. Appropriate accommodations may include, but are not limited to: supports for mental and physical well-being, supports to promote feelings of safety, supports to continue with their education or employment and supports to reduce contact with the Respondent.
- 7.4. It is not necessary to Report an incident of sexual and gender based violence or to make a Complaint under this Policy to obtain supports and services including those outlined in Appendix “B” to this Policy or appropriate accommodations (academic or otherwise).
- 7.5. There is no time limit that applies to making a request for supports, services or accommodations under this Policy.

## 8. Disclosure

- 8.1. A University Community Member who experiences sexual and gender based violence, or a Bystander, may choose to make a Disclosure of sexual and gender based violence. Disclosure, in these circumstances, is about sharing an account of what happened. University Community Members who make a Disclosure or who receive a Disclosure are fully entitled to seek supports, services and accommodations irrespective of whether they Report or file a Complaint about the sexual and gender based violence.
- 8.2 The University recognizes that some individuals may be hesitant to disclose or report sexual and gender based violence in cases where they have been using alcohol or drugs. A Complainant who, in good faith, discloses or reports an incident of sexual and gender based violence will not be subject to any disciplinary actions for violations of University policies related to alcohol

and/or drug use at the time that the sexual and gender based violence occurred.

- 8.3. While Disclosure may be made to any University Community Member, those who experience sexual and gender based violence are encouraged to contact the Office of Human Rights and Equity directly. The Office will provide, on a confidential basis, assistance in obtaining supports and services as well as information regarding options for reporting the incident.
- 8.4. Typically, a Complaint under this Policy will only be initiated if the individual making the Disclosure wishes to pursue a Complaint. However, the University reserves the right, at its sole discretion, to initiate a Complaint where there are reasonable grounds to believe that there is a safety risk or the University has a legal duty to investigate the matter.
- 8.5. There is no time limit for making a Disclosure under this Policy.

#### **8.6. What to do if you receive a Disclosure**

- 8.6.1. A University Community Member who receives a Disclosure should be respectful and supportive, provide assistance as appropriate, and encourage the individual to visit the Office of Human Rights and Equity to explore possible supports, services and accommodations as well as complaint options. The University Community Member who receives the Disclosure should maintain strict confidentiality with respect to that Disclosure unless there are reasonable grounds to believe that there is a safety risk, or the University has a legal duty to investigate the matter.
- 8.6.2. A University Community Member who receives a Disclosure and has reasonable grounds to believe that an individual is at imminent risk of self-harm is encouraged to seek assistance from one or more of the emergency services outlined in Appendix B and stay with the individual until emergency assistance is provided to the individual.
- 8.6.3. A University Community Member who receives a Disclosure and has reasonable grounds to believe that one or more individuals at the University or within the wider community may be at risk of harm is

encouraged to seek assistance from one or more of the emergency services outlined in Appendix B.

- 8.6.4. A University Community Member who receives a Disclosure and contacts emergency services as outlined above in section 8.5.2 or 8.5.3, is encouraged to Report the situation to the Office of Human Rights and Equity.
- 8.6.5. A University Community Member who is an Employee should keep track of all Disclosures, in an anonymous way, and report these to the Office of Human Rights and Equity for aggregate data reporting (see section 12.3.1).
- 8.6.6. A University Community Member who receives a Disclosure and requires support, services or accommodations as a consequence of the Disclosure, should report to the Office of Human Rights and Equity to request same.

## 9. Reporting

- 9.1. An individual who experiences sexual and gender based violence may choose to Report sexual and gender based violence to the Office of Human Rights and Equity, regardless of whether they choose to file a Complaint.
- 9.2. University Community Members who experience sexual and gender based violence are entitled to supports, services and accommodations irrespective of whether they file a complaint. University Community Members who experience sexual and gender based violence will not be asked irrelevant questions relating to their sexual expression or past sexual history. University Community Members who experience sexual and gender based violence and require accommodations (academic and otherwise) will be reasonably accommodated
- 9.3. An individual who experiences sexual and gender based violence may also choose to make a report to the police and will be supported by the Office of Human Rights and Equity in so doing.

- 9.4. The record of the Report will be used for aggregate data reporting (more particularly described in paragraph 12.3.1 herein).
- 9.5. In certain situations, a Survivor of sexual and gender based violence who makes a Report may wish to pursue an informal resolution process that could include mediation. This option will be assessed by the Office of Human Rights and Equity after consideration of the severity of the act, and any safety or risk factors. The Office of Human Rights and Equity will facilitate informal resolution if it determines that informal resolution is safe and it is the expressed wish of both the Survivor and Respondent.
- 9.6. A Report may cause an investigation or Complaint to be initiated; however, typically this will only happen if the person who made the Report wishes to initiate an investigation or a Complaint. The University reserves the right, at its sole discretion, to initiate a Complaint, even if the person who made the Report does not wish to make Complaint, if there are reasonable grounds to believe that there is a safety risk or the University has a legal duty to investigate the matter.

## 10. Interim Measures

- 10.1. The University may implement Interim Measures when the University concludes that such measures are necessary to protect the safety and security of another University Community Member regardless of whether a formal Report or Complaint has been made under this Policy.
- 10.2. The decision to implement Interim Measures will be made after balancing the safety and security of the University Community Member deemed to be at risk, with the rights of the Respondent. Where Interim Measures are necessary the University will seek to implement the least disruptive measures that still achieve the University's goal of promoting safety and security.
- 10.3. Decisions with respect to Interim Measures affecting Students will be made by the Office of Human Rights and Equity in consultation with the Sexual and Gender Based Violence Assessment Committee as necessary. Decisions with respect to Interim Measures affecting University Community Members who are not Students, will be made by the Appropriate Manager/Supervisor if the

individual is an Employee and by the Vice-President of Administration and Finance or a designate if the University Community Member is neither a Student nor an Employee.

- 10.4. Any of the Respondent, the individual who experienced sexual and gender based violence, and the Complainant may request modifications to Interim Measures and may make a written submission in support of their request. Requests for modifications shall be submitted to the Office of Human Rights and Equity. Requests for modifications involving Students shall be considered by the Office of Human Rights and Equity which may bring the request to the Sexual and Gender Based Violence Assessment Committee for consideration. Requests involving Employees shall be considered by the Appropriate Manager/Supervisor. Requests involving non-Students and non-Employees shall be considered by the Vice-President Administration and Finance or a designate. All requests for modifications to interim measures will be considered in relation to the safety of the University community.
- 10.5. A non-exhaustive list of possible Interim Measures includes:
- A no contact requirement;
  - A requirement to sign in and out of the University with security;
  - Suspension from the Library or athletic facilities including temporary removal of Lakehead membership from external facilities;
  - Suspension from University extra-curricular activities
  - Suspension from class attendance;
  - Trespassed from Campus;
  - Suspension from email access;
  - A curfew for those who reside on Campus; and
  - A relocation in residence or alternative housing for those who reside on Campus.
- 10.6. Interim Measures implemented will end the earlier of when:

- a) The Office of Human Rights and Equity, the Assessment Committee, the Appropriate Manager/Supervisor, or the Vice-President Administration and Finance, as the case may be, determines they should end;
  - b) There is a finding that no investigation is warranted;
  - c) There is a finding that no meeting of the Sexual and Gender Based Violence Adjudication Panel is warranted;
  - d) Complaint is withdrawn by a Complainant and the Complaint is not taken up by the University; or
  - e) Decisions and resulting consequences are determined by the Adjudication Panel or Appropriate Authority.
- 10.7. Accommodations and Interim Measures implemented in accordance with this Policy are not intended to be punitive or disciplinary within the meaning of any relevant collective agreement or university policy<sup>11</sup>. Complaint Process, Investigation, Adjudication

### 11.1. Complaint Process

#### 11.1.1. Filing and initiating a Complaint

- a) Complaints must be submitted, in writing, to the Office of Human Rights and Equity. Complaint forms may be accessed online at <https://www.lakeheadu.ca/faculty-and-staff/departments/services/human-rights-and-equity>. Complaints may be submitted as follows:
  - by regular mail to the Office of Human Rights and Equity at 955 Oliver Road, Thunder Bay, ON P7B 5E1,
  - in person, Li 5012, Chancellor Paterson Library (Thunder Bay) or Simcoe Hall 500 University Ave, (Orillia), Office of Student Affairs (Students), Office of Human Resources (Employees and visitors)
  - Or by confidential email to [humanrights@lakeheadu.ca](mailto:humanrights@lakeheadu.ca).
- b) A Complaint may be filed with the Office of Human Rights and Equity if the Respondent is a University Community Member.

- 11.1.2. A Complaint must be in writing and set out: the name of the Respondent, the nature and details of the sexual and gender based violence alleged, including detailed facts, specific dates and names of potential witnesses. The Office of

Human Rights and Equity will acknowledge receipt of the Complaint, review it and, if necessary, seek clarification.

11.1.3. Complaints that are malicious, retaliatory, vexatious, or made in bad faith do not fall under this Policy, and may be dealt with under other applicable University Policies.

11.1.4. An individual who has experienced sexual and gender based violence will retain control over whether a Complaint will be initiated under this Policy and the right to withdraw their Complaint at any time. To the greatest extent possible, the University will respect the person's choice not to proceed with a formal Complaint or request that the University not investigate. Notwithstanding, the University, at its sole discretion, reserves the right to investigate, initiate, or continue a Complaint if it has reason to believe that there is a safety risk or if the University has a legal obligation.

11.1.5. The Office of Human Rights and Equity will send a written notice to the Respondent informing the Respondent of the Complaint, enclosing a copy of the Complaint and informing them that the Assessment Committee will assess the Complaint. The Complainant and the Respondent will be directed to maintain strict confidentiality with respect to the Complaint Process.

## **11.2. Sexual and Gender Based Violence Assessment Committee (“Assessment Committee”)**

11.2.1. The Sexual and Gender Based Violence Assessment Committee is newly formed for each Complaint of sexual violence to ensure that Complaints are processed in an independent and unbiased manner. It is comprised of:

- a) Director\* of the Office of Human Rights and Equity (Chair); and
- b) Two Employees of the University chosen by the Director\* of the Office of Human Rights and Equity.

*\*Should the Director be in conflict or unavailable the Vice President of Finance and Administration shall designate a replacement.*

- 11.2.2. Upon receipt of a Complaint, the Office of Human Rights and Equity will convene the Assessment Committee. The Assessment Committee will assess the Complaint and determine whether: (a) the Respondent is a University Community member; (b) the conduct set out in the Complaint falls within the definition of sexual and gender based violence as set out in this Policy; (c) the matter falls more appropriately under another University Policy; and (d) there is a need for Interim Measures arising from immediate risks to safety.
- 11.2.3. If the Assessment Committee considers that the conduct in question falls within the definition of sexual and gender based violence as set out in this Policy, that the Complaint be investigated, the Respondent is a University Community Member and this Policy is the appropriate forum for the Complaint, it will appoint an Investigator.
- 11.2.4. If no Investigator is appointed the decision of the Assessment Committee will be provided to the Complainant and Respondent by the Office of Human Rights and Equity, in writing with brief reasons.
- 11.2.5. Should the Respondent leave the Lakehead University Community prior to the completion of a Complaint adjudication process, the investigation may continue as outlined below, however any further processing may, at the discretion of the University, be held in abeyance until the Respondent rejoins. A confidential information note of any abeyance will be placed in the Respondent's student record, or Employee file.

### **11.3. Investigation**

- 11.3.1. When the Assessment Committee appoints an investigator to investigate a Complaint, the investigator will not have a conflict of interest in relation to either the Complainant or the Respondent and will be competent to conduct investigations related to allegations of sexual and gender based violence.
- 11.3.2. When an investigator is appointed, the Office of Human Rights and Equity will send a written notice to the Respondent and the Complainant

informing both of the name of the Investigator. This notice will indicate that the Respondent will have an opportunity to respond to the written Complaint in writing and that the investigator will arrange interviews as the investigator deems appropriate. The Complainant and the Respondent will be directed to maintain strict confidentiality with respect to the investigation. Any breaches of this directive will be dealt with under the respective Lakehead University Code of Conduct.

- 11.3.3. If the Respondent provides a written response to the Complaint, the Investigator will send a copy of the Respondent's response to the Complainant.
- 11.3.4. The Complainant, the Respondent and any witnesses interviewed by the Investigator have the right to have a Support Person present during their interview(s) with the Investigator.
- 11.3.5. The Complainant, the Respondent and any witness interviewed by the Investigator also have the right to be represented by legal counsel during the interview(s) with the investigator.
- 11.3.6. If the Respondent is an Employee and is represented by a trade union the Respondent shall have the right to union representation during any investigatory meeting with the Investigator.
- 11.3.7. If the Respondent is an Employee, the Office of Human Rights and Equity will advise the Appropriate Manager/Supervisor, in writing, of the Complaint, the nature of the Complaint, and the investigation. The Appropriate Manager/Supervisor must maintain confidentiality, to the greatest extent possible with respect to the Complaint and the investigation.
- 11.3.8. All interviews conducted by the Investigator will be conducted in a fair, impartial, and professional manner mindful of professional practices surrounding parties to sexual and gender based violence complaints. The investigator will remind any persons engaged in an investigation of the requirement to protect and keep confidential the personal

information of the parties involved in the investigation, including the fact that an investigation is proceeding.

- 11.3.9. Either party may submit additional documentation or evidence to the Investigator at the time of their interview or during a time agreed upon by the Investigator which may then become part of the investigation report.
- 11.3.10. Those who require supports, services or accommodations to participate in the investigation process are encouraged to approach the Office of Human Rights and Equity to obtain same.
- 11.3.11. Either or both of the Complainant and Respondent may choose not to participate in the investigation. If this choice is made, the investigation report will reflect such choice, if it is relevant.
- 11.3.12. The investigator will compile all of the information submitted by the Complainant and Respondent, as well as any other information gathered during the investigation and will complete an investigation report setting out the facts the investigator has adduced during the course of the investigation.
- 11.3.13. The investigation and its report will be completed in a timely fashion. Updates on the Complaint process may be sought from the Office of Human Rights and Equity by the Complainant and Respondent.

#### **11.4. Investigation report**

- 11.4.1. Upon completion of the investigation, the investigator will send a written confidential report together with any documents and any other forms of evidence submitted to the investigator during the investigation, to the Office of Human Rights and Equity.
- 11.4.2. The Office of Human Rights and Equity will send the investigation report to the Respondent (and the Complainant if the Complainant wishes and if it is appropriate in the circumstances) with the explicit instruction to protect and keep confidential the personal information of those involved in the investigation and avoid acts of reprisal.

11.4.3. The Office of Human Rights and Equity will also forward the investigation report to the Assessment Committee who will review then determine whether the matter will be referred to a Sexual and Gender Based Violence Adjudication Panel (the “Panel”). If, in the view of the Assessment Committee, the investigation report indicates that there are no reasonable prospects of a finding that sexual and gender based violence occurred, the matter will not be referred to the Panel.

11.4.4. The finding of the Assessment Committee will be communicated by the Office of Human Rights and Equity to the Complainant and the Respondent in writing, with brief reasons.

### **11.5. Sexual and Gender Based Violence Adjudication Panel (Panel)**

11.5.1. Unless the Assessment Committee determines that the matter should not proceed to adjudication, the Office of Human Rights and Equity will assemble a three (3) person Panel and notify them of the Complaint.

11.5.2. The Panel will be selected from a pool of up to fifteen (15) people who are:

- a) tenured members of the faculty of the University;
- b) senior administrators of the University;
- c) other Employees of the University; or
- d) individuals from the community with knowledge and training with respect to sexual and gender based violence.

Each member of the pool shall be appointed for up to a three-year term by the Board of Governors on the recommendation of the President of the University.

11.5.3. The Panel assembled by the Office of Human Rights and Equity shall have no conflict of interest with the Complainant or Respondent. All Panels must have University representation whereas Community representation is not mandatory. Expertise on sexual and gender based violence and procedure, as well as a legal advisor, will be

available to the Panel and coordinated by the Office of Human Rights and Equity.

- 11.5.4. The Office of Human Rights and Equity will notify the Complainant and the Respondent, in writing, of the Panel composition and of the right to challenge this composition based on any conflict of interest. The Office of Human Rights and Equity will determine whether any adjustments to the Panel composition are required.
- 11.5.5. One member of the Panel will be appointed by the Panel as the “Chair” and will serve as the main point of contact between the Office of Human Rights and Equity and the Panel. Should the Panel require any additional information or support, this may be sought by the Chair through the Office of Human Rights and Equity.
- 11.5.6. The Office of Human Rights and Equity will send a copy of the Complaint, the response and the final investigation report and other documents submitted by the Complainant or the Respondent (all such information is collectively referred to as the “Evidence Dossier”) to the members of the Panel for their review.
- 11.5.7. Normally, within ten (10) business days after the Evidence Dossier is provided to the Panel, the Office of Human Rights and Equity will convene meetings of the Panel and the Complainant and Respondent. The notice will indicate the date, time, place and purpose of the meeting as well as include a statement that if the Complainant or the Respondent does not attend or participate in the meeting, the Panel may proceed in their absence, subject to any applicable accommodations.
- 11.5.8. The Chair of the Panel shall regulate the conduct of the meeting including, without limitation, removing any party or witness who is acting in contempt of the Panel or its processes. Without limiting any other remedies that may be available at law, any party or witness who is in violation of a directive of the Panel may be subject to the respective Lakehead University Code of Conduct.

- 11.5.9. In conducting a meeting, the Panel may proceed by way of a statement of facts agreed to by the parties, thus avoiding the need for other evidence.
- 11.5.10. Each of the parties to the meeting may be accompanied by a Support Person. Each party may also be represented by legal counsel. A party who is an Employee may have union representation if they are represented by a trade union.
- 11.5.11. The Panel meetings will be arranged so that the Complainant and the Respondent do not meet face-to-face unless all parties agree to do so.
- 11.5.12. The Panel meetings will be conducted in person or via video technology and the meetings will be closed, that is they will be private.
- 11.5.13. In the case of a meeting that does not proceed by way of an agreed statement of facts, either party before the Panel may call witnesses who may be questioned by the Panel. Parties may request that specific questions be asked of any witness. The Panel may limit the number of witnesses, amount or manner of questioning where further evidence or questioning will be repetitive or irrelevant. Any questions requested by either party to be asked by the Panel will be submitted to the Office of Human Rights and Equity for delivery to the Panel Chair within a reasonable timeline as decided by the Office of Human Rights and Equity.
- 11.5.14. The Panel shall ensure that the Complainant and the Respondent are given an opportunity to know and respond to information that it intends to rely upon in making its Decision.
- 11.5.15. The Panel shall have control over its own procedures.
- 11.5.16. The Panel shall decide, based on the balance of probabilities whether the alleged act(s) occurred on a balance of probabilities. That is, whether it is more likely than not that the alleged sexual and gender based violence occurred.

## **11.6. Decision of the Sexual and Gender Based Adjudication Panel**

- 11.6.1. Upon reviewing and considering the final investigation report and any representations made by the Complainant and the Respondent or other person at its meeting(s) with them, the Panel will:
- (a) Decide whether the Complaint is founded;
  - (b) If the Respondent is a Student, determine what consequences or measures, if any, shall be imposed and the respective timeline;
  - (c) If the Respondent is an Employee, the Panel shall make no determination regarding consequences or measures;
  - (d) If the Respondent is a University Community Member other than a Student or an Employee, the Panel shall make no determination regarding consequences or measures.
- 11.6.2. The decision(s) of the Panel and the reasons in support of it (the “Decision”) shall be in writing and delivered to the Office of Human Rights and Equity who will in turn deliver a copy to the Respondent. In the case of a Respondent who is a Student, the Decision including consequences, if any, will also be delivered to the Vice-Provost of Student Affairs and others necessary to implement the Decision. In the case of a Respondent who is an Employee, the Decision will also be delivered to the Appropriate Manager/Supervisor. In the case of a Respondent who is a University Community Member but neither a Student nor an Employee, the Decision will also be delivered to the Vice-President of Administration and Finance. The Vice-Provost of Student Affairs, the Appropriate Manager/Supervisor and the Vice-President of Administration and Finance will maintain confidentiality with respect to the Panel’s decision, to the greatest extent possible in the circumstances.
- 11.6.3. The Complainant has the right to know the outcome of the meeting but not the details of the disciplinary actions or consequences if any, taken against the Respondent unless the University deems sharing the information is permitted by law and necessary for protection of the Complainant’s health and safety.

## 11.7. Consequences

11.7.1. Consequences or measures in response to sexual and gender based violence will depend on the circumstances, on the severity of the conduct and on any mitigating factors. If a Complaint is upheld, consideration should be given to preventing its reoccurrence in the future, to correcting the negative impact of the incident on the Complainant, and to ensuring or enhancing the safety of University Community Members. The following list provides examples of possible consequences and measures for Student Respondents and is not meant to be exhaustive nor necessarily does it represent a progression of consequences or measures:

- Mandatory attendance at educational sessions on the impact of sexual and gender based violence;
- Mandatory attendance at coaching sessions to improve communication and/or conflict resolution skills;
- Restricted or prohibited access to University Campuses and/or services; and
- For Students – discipline up to and including suspension or expulsion\* from the University.

11.7.2. The Panel does not have the authority to award damages, aggravated damages, special damages or costs.

*\*Note that expulsion from the University requires the approval of the President.*

## 11.8. General Provisions on the Formal Complaint Process

11.8.1. **External reporting and recourse** – This Policy and the Complaint process do not prevent, and are not intended to discourage, an individual from also reporting sexual and gender based violence to the police, pursuing a complaint of sexual and gender based violence through the criminal justice system, pursuing a complaint of sexual harassment with the Ontario Human Rights Tribunal pursuant to the

Ontario Human Rights Code, or the Occupational Health and Safety Act or availing themselves of other civil processes and remedies.

- 11.8.2. **Choice not to file a Complaint or not to investigate** – An individual may choose not to file a Complaint under this Policy or request that the University not investigate, and the full range of supports and services outlined in this Policy remain available to that individual.
- 11.8.3. **Withdrawal of a Complaint** – A Complainant who has filed a Complaint may withdraw the Complaint at any time by providing such notification in writing to the Office of Human Rights and Equity. Withdrawal of a Complaint by an individual Complainant does not necessarily mean that the University will not pursue its own Complaint or take up the existing Complaint.
- 11.8.4. **Harassment and/or discrimination** – Complaints of harassment and/or discrimination that do not involve sexual and gender based violence will be addressed through the University's Harassment and Discrimination Policy, Workplace Violence Policy, the Code of Student Behaviour and Disciplinary Procedures, or other applicable University policies and not through this Policy.
- 11.8.5. **Support Person** – The Complainant or the Respondent can be accompanied by a Support Person of their choice at any time during the Complaint process as outlined in this Policy.
- 11.8.6. **Confidentiality** - Documents and information related to a Complaint, including the written Complaint, written responses, witness statements, investigation notes and reports, and documents related to the Complaint and its investigation, will be securely maintained by the Office of Human Rights and Equity.
- 11.8.7. **Timelines** – The timelines mentioned in this Policy are meant to ensure that the matters are dealt with in a timely manner. Where the Respondent is an Employee represented by a Union, time limits related to investigations or discipline must comply with the respective collective agreement. If it is deemed necessary, in the interests of fairness or

justice, to extend such timelines, consent of the Union shall be sought. For all other Respondents, strict compliance with time requirements may be dispensed with, as necessary, in the interests of fairness and justice.

- 11.8.8. **Applicable collective agreements** - This Policy does not replace or supersede applicable collective agreement

## 12. Communication, Education and Information

### 12.1. Institutional Responsibility to Provide Support and Timely Communication

- 12.1.1. Coordinated care and sensitive and timely communication with individuals affected by sexual and gender based violence (and with their family members when an individual who has experienced sexual and gender based violence consents to such communication) are central to the University's first response to sexual and gender based violence. To facilitate this support and communication the University will maintain and update a "Sexual and Gender based Violence Support" webpage that can be easily accessed through the main Lakehead University webpage. This information webpage may include, but not be limited to:
- Information on Disclosure, reporting and Complaint options;
  - Educational resources on sexual and gender based violence; and
  - Contact information and links for Campus and community resources.

### 12.2. Institutional Responsibility to Provide Training and Education

- 12.2.1. The University will strive to provide training opportunities to all University Community Members to ensure understanding of this Policy and better enable members of the community to assist and support those who have experienced sexual and gender based violence.
- 12.2.2. University Community Members are encouraged to contribute to the prevention of, intervention in, and effective response to, sexual and gender based violence. All University Community Members play a role in building a safe and just educational environment by championing

positive practices and challenging all acts of sexual and gender based violence.

### **12.3. Collection and Dissemination of Information**

- 12.3.1. The University will collect information through the Office of Human Rights and Equity regarding Reports and Complaints of sexual and gender based violence by Students and provide to the Ministry of Advanced Education and Skills Development upon request such data and other information as may be requested including:
- Number of times supports, services and accommodations relating to sexual and gender based violence are requested and obtained by Students and information about those supports, services and accommodations;
  - Initiatives and programs to promote awareness of supports and services available to Students;
  - Number of Reports and Complaints of sexual and gender based violence involving Students, and information about such incidents and Complaints; and
  - The implementation and effectiveness of this Policy.
- 12.3.2. The University will participate in reporting obligations to the Ministry as required and shall ensure that information provided to the Minister does not disclose personal information within the meaning of section 38 of the Freedom of Information and Protection of Privacy Act or other information which the University is otherwise not legally permitted to disclose.
- 12.3.3. The University shall provide its Board of Governors with an annual anonymized report setting out, for the previous year, information described in paragraph 12.3.1 of this Policy.

### 13. Policy Review

- 13.1. Lakehead University shall review this policy within one (1) year after its initial adoption, and at least once every three (3) years thereafter, ensuring that consultation, including Student input, forms part of that review.
- 13.2. The University may, by approval of the Executive Team, update the following information in this Policy at any time in its discretion:
  - 13.2.1. The supports and services that are available at the University or in the community.
  - 13.2.2. The identity of the following University officials, offices and departments:
    - a) the specific official, office or department at the University that should be contacted to obtain supports and services for Students who are affected by sexual and gender based violence
    - b) the specific official, office or department at the University that should be contacted to obtain accommodations for Students who are affected by sexual and gender based violence
    - c) the specific official, office or department to whom incidents of sexual and gender based violence may be reported or Complaints may be made about sexual and gender based violence
    - d) the specific officials, offices or departments that will be involved in each stage of investigation and decision-making processes.

### Appendix A: Sexual and Gender Based Violence Terms and Definitions

Consent: Consent is voluntary agreement to engage in the sexual activity in question. It is the responsibility of the initiator of sexual activity to obtain clear and affirmative responses at all stages of sexual engagement. Consent is agreement or permission expressed through affirmative, voluntary words or actions that are mutually understandable to all parties involved, to engage in a specific sexual or physical act at a specific time. Consent: can be withdrawn at any time; cannot be assumed or implied;

cannot be coerced or compelled by force, threat, deception or intimidation;  
cannot be given by someone who is incapacitated (e.g. someone who is under the influence of drugs or alcohol or who is unconscious);  
cannot be assumed based on silence, or the absence of “no” or “stop”, the existence of a prior or current relationship, or prior sexual activity;  
cannot be given by anyone other than the person participating in the sexual activity; and  
may need to be different for those who have a condition that limits their verbal or physical means of interaction – in such instances, it is extremely important to determine how consent will be established.

**Gender Expression:** Is how a person publicly presents their gender. This can include behavior and outward appearance such as dress, hair, make-up, body language and voice. A person’s chosen name and pronoun are also common ways of expressing gender.

**Gender Identity:** Is each person’s internal and individual experience of gender. It is their sense of being a woman, a man, both, neither, or anywhere along the gender spectrum. A person’s gender identity may be the same or different from their birth-assigned sex. Gender identity is fundamentally different from a person’s sexual orientation.

**Gendered Violence:** Refers to any subtle or overt action or attitude that establishes, exploits, and reinforces gender inequalities resulting in physical, sexual, emotional, economic or mental harm, this violence includes sexism, gender discrimination, gender harassment, biphobia, transphobia, homophobia and heterosexism, intimate partner violence, and forms of sexual and gender based violence. This violence can take place on any communication platform.

**Incapacitation:** Is a state in which someone cannot make rational decisions because the individual lacks the capacity to give consent (to understand the ‘who, what, when, where and why’ of their sexual interaction).

**Indecent Exposure:** Is an offence contrary to section 173 of the Criminal Code of Canada that involves exposing genital organs, for a sexual purpose to a person who is under the age of 16. It is also an offence contrary to section 173 for a person to willfully commit an indecent act in a public place with intent to insult or offend any person.

**Sexual Assault:** Sexual assault is an unwanted sexual act done by one person or a group of persons to another. Sexual assault includes anything from unwanted, un-invited sexual

touching to rape. The offender uses physical force, threat, intimidation and coercion to gain control of the other person.

**Sexual Cyber-harassment/Cyber-stalking:** Are terms often used interchangeably, are defined as repeated, unsolicited, threatening behaviour of a sexual nature by a person or group using cell phone or any other device, or form of information platform or internet technology with the intent to bully, harass, and intimidate others. The harassment can take place in any electronic environment where communication with others is possible, including but not limited to, social networking sites, message boards, chat rooms, through text messages or through email.

**Sexual Exploitation:** Is an offence contrary to section 153 of the Criminal Code of Canada whereby one who is in a position of trust or authority over a young person (a person 16 years or age or more but under the age of 18 years) and for a sexual purpose, touches, directly or indirectly, with a part of the body or with an object, any part of the body of the young person, or for a sexual purposes, invites, counsels or incites a young person to touch, directly or indirectly, with a part of the body or with an object, the body of any person, including the body of the person who so invites, counsels or incites and the body of the young person.

**Sexual Harassment:** Is defined in the Ontario Human Rights 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 harassment can include, but is not limited to:

- Unwelcome sexual advances;
- Unwanted attention;
- Implied or express rewards or benefits for sexual favour and implied or express threats if sexual favours are denied;
- Requests for sexual favours;
- Verbal or non-verbal or physical conduct of a sexual nature;
- Indecent exposure;
- Voyeurism;
- Unwelcome remarks and/or vexatious comments about someone's sexuality, appearance and bodily presentation, gender or gender expression;
- Attempts to extort sexual favors;

- Inappropriate touching;
- Repeated and vulgar sexual comments;
- Display of pornographic or suggestive calendars, signs, posters and/or photographs; and
- Non-consensual posting of pictures, aggressive comments or stereotypes and slurs on social media, including, but not limited to: email, Facebook, Twitter.

**Stalking:** Stalking is a form of criminal harassment prohibited by section 264 of the Criminal Code of Canada. It involves behaviours that occur on more than one occasion and which collectively instill fear in the victim or threaten the targeted person's safety or mental health. Stalking can also include threats of harm to the targeted individual's friends and/or family.

These behaviours include, but are not limited to:

- Repeatedly following the other person (e.g. surveillance and pursuit and "creeping" via social media);
- Repeatedly communicating, directly or indirectly with the other person by telephone, email, Facebook (or other forms of social media) or face-to-face;
- Watching the place where the other person lives, works, carries on business or happens to be;
- Engaging in threatening conduct toward the other person (e.g. threats or obscene, unsolicited gifts romantic, bizarre, sinister or sexualized);

**Voyeurism:** This is an offence contrary to section 162 of the Criminal Code of Canada that consists of surreptitiously (secretly) observing, physically or by mechanical or electronic means, or making a visual recording of a person who is in circumstances that give rise to a reasonable expectation of privacy. Reasonable expectations of privacy exist when a person is naked or exposed. Reasonable expectations of privacy exist in places where a person can reasonably be expected to be naked or exposed – places like change rooms, bathrooms and bedrooms.

## Appendix B: Support Services/Resources On-Campus and in Thunder Bay and Orillia

### On-Campus Supports:

- **LUSU: Gender Equity Centre**, Peer-to-peer support, email [gec@lusu.ca](mailto:gec@lusu.ca), phone 807-343-8879
- **LUSU: Pride Central**, Peer-to-peer support, email [pridecentral@lusu.ca](mailto:pridecentral@lusu.ca), phone 807-343-8813
- **LUSU: General**, Peer-to-peer support, email [general@lusu.ca](mailto:general@lusu.ca), phone 807-343-8259
- **LUSU: Orillia**, Peer-to-peer support, phone 705-330-4008 extension 2180
- **Multicultural Centre**: Peer-to-Peer support, email [mcc@lusu.ca](mailto:mcc@lusu.ca), phone 807-343-7959
- **Aboriginal Awareness Centre**: Peer-to-Peer support, email [aac@lusu.ca](mailto:aac@lusu.ca), phone 807-343-8259
- **Aboriginal Cultural & Support Services**: Individual services, email [transitions@lakeheadu.ca](mailto:transitions@lakeheadu.ca), phone 807-343-8028
- **Ombudsperson**: Advocacy, email [ombudsperson@lakeheadu.ca](mailto:ombudsperson@lakeheadu.ca), phone 807-343-8061
- **Human Rights and Equity**: Disclosures, Reporting, Accommodations, email [humanrights@lakeheadu.ca](mailto:humanrights@lakeheadu.ca), phone 807-346-7765
- **Student Health and Wellness – Thunder Bay**: Counselling, Medical Services, email [health@lakeheadu.ca](mailto:health@lakeheadu.ca), phone 807-343-8361
- **Lakehead Security**: Reporting, Emergency, phone 807-343 -8569
- **Orillia Wellness Centre**: Counselling, Referrals, [email\\_orlywellness@lakeheadu.ca](mailto:email_orlywellness@lakeheadu.ca)
- **Orillia Security Services**: Reporting, Emergency, phone 705-330-4008 extension 3-911
- **Orillia Safe Walk**: Emergency, Support, phone 705-330-4008 extension 2009

### Thunder Bay Off-Campus Supports:

- **Assaulted Women’s Helpline**: toll free 1-866-863-0511, TTY 1-866-863-7868, Bell Mobility #7233, website [www.awhl.org](http://www.awhl.org)
- **Thunder Bay Crisis Response**: phone 1-807-346-8282, toll free 1-888-269-3100
- **Thunder Bay Police Service**: phone 1-807-684-1333

- **Sexual Assault/Domestic Violence Treatment Centre – Thunder Bay Regional Health Sciences Centre:** phone 1-807-684-6751
- **Beendigen Inc.- Healing Our Own Counselling Unit:** phone 1-807-344-9579
- **Crisis Line:** 1-807-346-4357 (807-346-HELP), toll free 1-888-200-9997, email [info@beendigen.com](mailto:info@beendigen.com)
- **Ishaawin Counselling Centre:** phone 1-807-622-5790, email [ishaawin@risingabove.ca](mailto:ishaawin@risingabove.ca)
- **Northwestern Ontario Women’s Centre:** phone 1-807-345-7802, website [nwcentre@tbaytel.net](http://nwcentre@tbaytel.net)
- **Ontario Native Women’s Association:** toll free 1-800-667-0816, email [justicecoordinator@onwa.ca](mailto:justicecoordinator@onwa.ca)
- **Talk4Healing- Helpline:** phone 1-855-554-4325
- **Sexual Abuse Centre:** phone 1-807- 345-0894, email [info@tbsasa.org](mailto:info@tbsasa.org)
- **Centr’elles – French language based Sexual Assault Centre:** phone 1-807-684-1955, email [admin@centrelles.com](mailto:admin@centrelles.com)

#### **Orillia Off-Campus Supports:**

- **Sexual Assault Treatment Centre:** phone 1-705-327-9155 or 1-877-377-7438
- **North Simcoe Victim Crisis Services:** phone 1-705-325-5578
- **Orillia Native Women’s Group:** phone 1-705-329-7755
- **Orillia Soldier’s Memorial Hospital:** toll free 1-877-377-7438
- **Art Therapy Works:** phone 1-705-721-7185
- **Athena’s Sexual Assault Counselling and Advocacy Centre:** toll free 1-800-461-1750

## **Appendix C. Relevant Policies, Protocols and Legislation**

### **I. University-Related Policies, Procedures and Protocols**

- Code of Student Behaviour and Disciplinary Procedures
- Harassment and Discrimination Policy and Procedures
- Employee Code of Conduct
- Violence in the Workplace

## II. Relevant Legislations and Provincial Mandates

Criminal Code of Canada (<http://laws-lois.justice.gc.ca/PDF/C-46.pdf>):

- Voyeurism (section 162)
- Indecent act/exposure (section 173)
- Criminal harassment (section 264) – includes stalking, and cyber harassment
- Sexual assault (section 271-273)
- Meaning of consent (section 273.1)
- Sexual offences, consent no defense (section 150.1)
- Sexual exploitation of person with disability (section 153.1)

Ontario Human Rights Code, Part I (<http://www.ohrc.on.ca/en/ontario-human-rights-code>), which prohibits discrimination in the provision of educational services, in housing and in employment on the basis of sex, sexual orientation, gender identity and gender expression. The Human Rights Code also prohibits harassment in employment on the basis of sex, sexual orientation, gender identity and gender expression. The behaviour prohibited by the Human Rights Code includes sexual misconduct.

The Ontario Occupational Health and Safety Act (OHSA), Part III.0., (<https://www.ontario.ca/laws/statute/90o01>) prohibits violence and harassment in the workplace. This prohibition includes sexual harassment and sexual and gender based violence.

Ministry of Training, Colleges and Universities Act, R.S.O. 1990, c. M.19  
(<https://www.ontario.ca/laws/statute/90m19>)

The Provincial Report, It's Never Okay: An Action Plan to Stop Sexual and gender based violence and Harassment (<http://docs.files.ontario.ca/documents/4593/actionplan-itsneverokay.pdf>)

Ontario's Bill 132, Sexual and gender based violence and Harassment Action Plan Act, (2016)  
([http://www.ontla.on.ca/web/bills/bills\\_detail.do?locale=en&BillID=3535](http://www.ontla.on.ca/web/bills/bills_detail.do?locale=en&BillID=3535))

**Review Period:** 3 years;

**Next Review Period:** 2024-2025;

**Related Policies and Procedures:** Student Code of Conduct Policies; Harassment and Discrimination Policy and Procedures; Employee Code of Conduct; Violence in the Workplace;

**Policy Superseded by this Policy:** None.

The University Secretariat manages the development of policies through an impartial, fair governance process, and in accordance with the Policy Governance Framework. Please contact the University Secretariat for additional information on University policies and procedures and/or if you require this information in another format:

Open: Monday through Friday from 8:30am to 4:30pm;

Location: University Centre, Thunder Bay Campus, Room UC2002;

Phone: 807-343-8010 ext. 7929 or Email: [univsec@lakeheadu.ca](mailto:univsec@lakeheadu.ca).