



Sexual Violence Response Policy

Policy Category: General

Approved By: Board Executive Committee on behalf of Board of Governors

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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. It recognizes that all forms of sexual violence jeopardize the welfare and safety of the community and efforts to address sexual violence must be grounded in the recognition that sexual violence disproportionately affects equity-seeking groups. Therefore, some acts of sexual violence are also acts of sexism, racism, ableism, homophobia or transphobia. Sexual 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 violence. The primary focus of this Sexual Violence Response Policy (the “Policy”) is on the University’s response to sexual violence.
- 1.2. The purpose of the Policy is to articulate the University’s commitment to supporting survivors of sexual violence and addressing incidences of sexual violence. Specifically, this Policy sets out:
 - (a) The University’s principles around sexual violence including confidentiality;
 - (b) The supports and services available for survivors on Campus and in the community;
 - (c) The supports associated with sexual violence disclosure;
 - (d) The accommodations (academic and otherwise) available for survivors of sexual violence;
 - (e) The Complaint process for sexual 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 events. This Policy applies if the person affected by sexual violence is a University Community Member – irrespective of where the sexual violence occurred and irrespective of whether the person accused of sexual violence is a University Community Member. This Policy applies if the person accused of sexual violence is a University Community Member – irrespective of where the sexual violence is alleged to have occurred and irrespective of whether the subject of the alleged sexual violence is a 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 Violence

- 3.1. In this Policy, 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, and includes sexual assault, sexual harassment, stalking, indecent exposure, voyeurism and sexual exploitation.
- 3.2. The terms: gender identity, gender expression, consent, sexual assault, sexual harassment, stalking, indecent exposure, voyeurism and sexual exploitation are defined in Appendix "A" to this Policy. Appendix "A" also contains definitions of other terms that are frequently used in the context of sexual violence.

4. Definitions

4.1. The following definitions apply to this Policy.

- 4.1.1. **Appropriate Manager/ Supervisor:** the person in a direct position of authority over a Respondent who is also an Employee of the University.
- 4.1.2. **Bystander:** A bystander is anyone who is in a position to intervene before, during or after the action(s) of sexual violence and includes those who receive a Disclosure of sexual violence. A bystander is neither a person who is the subject of sexual violence nor a person accused of engaging in the sexual violence.
- 4.1.3. **Campus:** Includes all grounds and buildings administered by the University, including all physical and digital spaces that are administered by the University.
- 4.1.4. **Complainant:** a victim of sexual violence or the University who files a Complaint under this Policy.
- 4.1.5. **Complaint:** A written complaint of sexual violence filed by the Complainant or the University in accordance with paragraphs 11.1.1 and 11.1.2 of this Policy.
- 4.1.6. **Disclosure:** When a person tells a University Community Member that they have experienced or witnessed sexual violence involving a University Community Member.

- 4.1.7. **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.
- 4.1.8. **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.
- 4.1.9. **Ministry** means the Ministry of Advanced Education and Skills Development, and **Minister** means the Minister of the Ministry.
- 4.1.10. **Report:** A written statement to the Office of Human Rights and Equity accounting an incident of sexual violence.
- 4.1.11. **Respondent:** A person who has been accused of committing sexual violence. The person accused is the Respondent in a Complaint involving sexual violence.
- 4.1.12. **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.
- 4.1.13. **Support Person:** Any person who provides psychological or emotional support to survivor.
- 4.1.14. **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 violence as being the best judge of their own interests and ensuring where possible that their wishes are considered;
- (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 experiences of sexual violence of any kind are treated with dignity and respect;

- (d) Respecting the rights and intersectional realities of equity-seeking groups;
- (e) Assisting those who have experienced sexual violence in obtaining counseling and medical care, whether on or off Campus;
- (f) Providing those who experience sexual violence with appropriate academic and other accommodation(s);
- (g) Providing those who have experienced sexual violence with information about their options under this Policy and outside of this Policy;
- (h) Maintaining confidentiality of those who have made a Disclosure or Report of sexual 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 violence; and
- (l) Providing educational opportunities and information to University Community Members about how to identify situations that involve, or could progress into, sexual 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 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 Complaint has been filed; and
 - (e) An accommodation, support or service may place limits on the level of confidentiality.

7. Supports, Services and Accommodations (Academic and Otherwise) Available for those who Experience Sexual Violence

- 7.1. The supports and services for those who have experienced sexual violence (including the subject of the sexual 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 who have experienced sexual 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 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 violence or to make a Complaint under this Policy to obtain the supports and services outlined in Appendix “B” to this Policy or to obtain 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 violence, or a Bystander, may choose to make a Disclosure of sexual 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 violence.
- 8.2. While Disclosure may be made to any University Community Member, those who experience sexual 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.

8.3. 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 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.

8.4. There is no time limit for making a Disclosure under this Policy.

8.5. What to do if you receive a Disclosure

8.5.1. 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.

8.5.2. 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.

8.5.3. 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.

8.5.4. 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.

8.5.5. 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).

8.5.6. 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 violence may choose to Report sexual violence to the Office of Human Rights and Equity, regardless of whether they choose to file a Complaint.
- 9.2. An individual who experiences sexual 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.
- 9.3. The record of the Report will be used for aggregate data reporting (more particularly described in paragraph 12.3.1 herein).
- 9.4. In certain situations a survivor of sexual 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.
- 9.5. 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 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 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 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 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.

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;
- 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 for those who reside on Campus.

10.6. Interim Measures implemented in respect of Students 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 Violence Adjudication Panel is warranted;
- (d) When a Complaint is withdrawn by a Complainant and the Complaint is not taken up by the University; or
- (e) At the conclusion of a meeting of the Sexual Violence Adjudication Panel if the decision of the Panel directs that the Interim Measure(s) end.

- 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.

11. 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. Complaints may be submitted by regular mail to the Office of Human Rights and Equity at 955 Oliver Road, Thunder Bay, ON P7B 5E1, in person, or by confidential email to 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 must set out: the name of the Respondent, the nature and details of the sexual 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. Normally, an individual who has experienced sexual violence will retain control over whether a Complaint will be initiated under this Policy. 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. However, the University reserves the right to investigate and initiate a Complaint if it has reason to believe that there is a safety risk or if the University has a legal obligation to investigate.

11.1.5. A Complainant may withdraw their Complaint at any time during the Complaint process. Normally, the Complainant will retain control over their Complaint; however, the University reserves the right to take up the Complaint if it has reason to believe that there is a safety risk or if the University has a legal obligation to investigate.

11.1.6. The Office of Human Rights and Equity will send a written notice to the Respondent and the Complainant informing both 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.

11.2. **Sexual Violence Assessment Committee (Assessment Committee)**

11.2.1. The Sexual Violence Assessment Committee 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.

11.2.2. Upon receipt of a Complaint, the Office of Human Rights and Equity will convene the Sexual Violence 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 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 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.

11.3. **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 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.

- 11.3.3. 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.
- 11.3.4. 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.
- 11.3.5. 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 appointed investigator.
- 11.3.6. 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.
- 11.3.7. The investigation will be done in a timely fashion.
- 11.3.8. If the Respondent provides a written response to the Complaint, the investigator will send a copy of the Respondent's response to the Complainant, who may submit a written reply within the time requested by the investigator. If no written reply is provided within the time requested, the investigator will proceed in the absence of such a reply. The Respondent will receive a copy of the reply, if any.
- 11.3.9. All interviews conducted by the investigator will be conducted in a fair, impartial and professional manner. 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.
- 11.3.10. 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. 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. The Respondent and the Complainant will be provided with an opportunity to make written submission with respect to the investigation report. Any submissions received will be shared with the other party if appropriate in the circumstances. All of this information will then be provided to the Office of Human Rights and Equity.

11.4.3. The Office of Human Rights and Equity will then forward the investigation report and any submissions provided by the Respondent or the Complainant in response to the investigation report, to the Assessment Committee. The Assessment Committee, after a review of the investigation report and any submissions filed by the Respondent or Complainant, will determine whether the matter will be referred to a Sexual Violence Adjudication Panel. If, in the view of the Assessment Committee, the file indicates that there are no reasonable prospects of a finding that sexual violence occurred, the matter will not be referred to the Sexual Violence Adjudication 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 Violence Adjudication Panel (Panel) Composition and Functions**

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: tenured members of the faculty of the University, senior administrators of the University, other Employees of the University or individuals from the community

with knowledge and training with respect to sexual violence. The members of the Panel shall be appointed in each year by the Board of Governors or its Executive Committee on the recommendation of the President of the University.

- 11.5.3. The Panel assembled by the Director 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 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. One Panelist will be appointed by the Panel as the Chair.
- 11.5.5. The Office of Human Rights and Equity will notify the Respondent and the Complainant, 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.
- 11.5.6. The Office of Human Rights and Equity will send a copy of the Complaint, the response and any written replies from either the Respondent or Complainant as well as the final investigation report and other documents submitted by the Complainant or the Respondent that were provided to the Assessment Committee following the investigation (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.
- 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.

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 violence occurred.

11.6. **Decision of the 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;
- (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 copies the Respondent. In the case of a Respondent who is a Student, the Decision 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 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 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 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.

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

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

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 violence to the police, pursuing a complaint of sexual 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 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 fashion. However, in the administration of this Policy, 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 agreements.

12. Communication, Education and Information

12.1. Institutional Responsibility to Provide Support and Timely Communication

Coordinated care and sensitive and timely communication with individuals who have experienced sexual violence (and with their family members when an individual who has experienced sexual violence consents to such communication) are central to the University’s first response to sexual violence. To facilitate this support and communication the University will maintain and update a “Sexual 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 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 violence.

12.2.2. University Community Members are encouraged to contribute to the prevention of, intervention in, and effective response to, sexual violence. All University Community Members play a role in building a safe and just educational environment.

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 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:

- (a) Number of times supports, services and accommodations relating to sexual violence are requested and obtained by Students and information about those supports, services and accommodations;
- (b) Initiatives and programs to promote awareness of supports and services available to Students;
- (c) Number of Reports and Complaints of sexual violence involving Students, and information about such incidents and Complaints; and
- (d) 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 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 violence
 - (c) the specific official, office or department to whom incidents of sexual violence may be reported or Complaints may be made about sexual violence
 - (d) the specific officials, offices or departments that will be involved in each stage of investigation and decision-making processes.

Appendix A: Sexual 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
- 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 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 form of 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 favours;
- 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);

Survivor: a University Community Member who has been affected or negatively impacted by sexual violence.

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:

Name	Service	Email	Phone
LUSU: Gender Issues Centre	Peer-to-peer support	gic@lusu.ca	807.343.8879
LUSU: Pride Central	Peer-to-peer support	pridecentral@lusu.ca	807-343-8813
LUSU: General	Peer-to-peer support	general@lusu.ca	(807) 343-8259
LUSU: Orillia	Peer-to-peer support		(705) 330-4008 ext. 2180
Multicultural Centre	Peer-to-Peer support	mcc@lusu.ca	807-343-7959
Aboriginal Awareness Centre	Peer-to-Peer support	aac@lusu.ca	(807) 343-8259
Ombudsperson	Advocacy	ombuds@lakeheadu.ca	
Human Rights and Equity	Disclosures, Reporting, Accommodations	humanrights@lakeheadu.ca	(807) 346-7765
Student Health and Counselling – Thunder Bay	Counselling, Medical Services	health@lakeheadu.ca	(807) 343-8361
Lakehead Security	Reporting, Emergency		(807) 343 -8569
Orillia Wellness Centre	Counselling, Referrals	orluwell@lakeheadu.ca	(705) 330-4008 ext 2115
Orillia Security Services	Reporting, Emergency		(705) 330-4008 ext 3-911
Orillia Safe Walk	Emergency, Support		(705) 330-4008 ext 2009

Off-Campus Supports

Thunder Bay

Assaulted Women's Helpline	1-866-863-0511 (toll-free) 1-866-863-7868 (TTY) #7233 Bell Mobility	www.awhl.org
Thunder Bay Crisis Response	1-807-346-8282 1-888-269-3100	
Thunder Bay Police Service	1-807-684-1333	
Sexual Assault/Domestic Violence Treatment Centre – Thunder Bay Regional Health Sciences Centre	1-807-684-6751	

Beendigen Inc.- Healing Our Own Counselling Unit	1-807-344-9579 Crisis Line: 1-807-346-4357 (807-346-HELP) Toll Free 1-888-200-9997	info@beendigen.com
Ishaawin Counselling Centre	1-807-622-5790	ishaawin@risingabove.ca
Northwestern Ontario Women's Centre	1-807-345-7802	nwcentre@tbaytel.net
Ontario Native Women's Association	1-800-667-0816	justicecoordinator@onwa.ca
Talk4Healing- Helpline	1-855-554-4325	
Sexual Abuse Centre	1-807- 345-0894	info@tbsasa.org

Orillia:

Sexual Assault Treatment Centre	1-705-327-9155 1-877-377-7438	
North Simcoe Victim Crisis Services	1-705-325-5578	
Orillia Native Women's Group	705-329-7755	
Orillia Soldier's Memorial Hospital Sexual and Domestic Violence Centre	1-877-377-7438	
Art Therapy Works	1-705-721-7185	
Athena's Sexual Assault Counselling and Advocacy Centre	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 (OHS Act), Part III.0., (<https://www.ontario.ca/laws/statute/90o01>) prohibits violence and harassment in the workplace. This prohibition includes sexual harassment and sexual violence.

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

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