



Sexual Violence Policy (Consultation Draft Nov/16)

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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 diverse members of its 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 our 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 our 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.

1.2 The purpose of this policy is to articulate the University’s commitment to supporting survivors of sexual violence and addressing incidences of sexual violence through both prevention and response programs. Specifically, this policy sets out

- the University’s principles around sexual violence including confidentiality,
- the supports and services available for survivors on campus and in the community,
- the supports associated with sexual violence disclosures,
- the complaint process for sexual violence reporting,
- the University’s education and training function, and
- the means by which this policy will be reviewed and reported upon.

1.3 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. (Bill 132, Schedule 3, 17(1)).

2. Interpretation and Definitions

2.1 This policy replaces Lakehead University’s Sexual Misconduct Policy and Protocol.

2.2 The following definitions are provided to aid in the application of this policy:

Bystander: A bystander is anyone who is neither a victim nor an offender/person accused, but someone who could potentially get involved to make a difference. A bystander refers to anyone who is in a position to intervene before, during or after the action(s) of sexual violence.

Consent: Any sexual activity without consent is sexual assault¹. Under section 273.1 of the Criminal Code of Canada, consent is the voluntary agreement to engage in the sexual activity in question. This means that there must be an understandable exchange of affirmative words that indicates a willingness to participate in mutually agreed upon sexual activity. Consent must be informed, freely given and active. It is the responsibility of the initiator of sexual activity to obtain clear and affirmative responses at all stages of sexual engagement. Lack of understanding is not a defence under the law and activity without consent is assault, whatever the relationship between the individuals concerned.

Disclosure: When someone tells a University official that they have experienced sexual violence.

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). Sexual activity with someone who one knows to be, or based on circumstances should reasonably have known to be, mentally or physically incapacitated (by drug or alcohol use, unconsciousness or a blackout) constitutes sexual assault.

Person Accused/Offender/Perpetrator/Respondent: A person who has been accused of committing sexual violence. The person accused is the Respondent in a complaint involving sexual violence. The person accused may also be referred to as the offender or as the perpetrator.

Report/Complaint: A formal report or complaint of an incident of sexual violence for the purposes of initiating some form of investigation whether on- or off-campus.

Sexual Assault: Sexual assault is prohibited by section 271 of the Criminal Code of Canada. 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: Cyber-harassment and Cyber-stalking, 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.

¹ *Criminal Code of Canada*, Sections 265, 271, 272 and 273.

Sexual Exploitation: Is an offence whereby one who is in a position of trust or authority over a young person (a person 16 years of age or more but under the age of 18 years) or a person who directly holds power over another and who 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 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 (prohibited under section 173 of the Criminal Code of Canada);
- Voyeurism (prohibited under section 162 of the Criminal Code of Canada);
- 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 the Criminal Code of Canada, section 264. 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:

- i) Non-consensual communications (face to face, phone, email, social media);
- ii) Threatening or obscene gestures;
- iii) Surveillance and pursuit;
- iv) Sending unsolicited gifts (romantic, bizarre, sinister or sexualized);
- v) 'Creeping' via social media/cyber-stalking; and
- vi) Uttering threats.

Student: An individual who is registered in a course or course of study at the University or was so registered at the time an incident of sexual violence is alleged to have occurred.

Employee: All staff and faculty who are in an employment relationship with Lakehead University.

Campus: Includes all physical and digital spaces that are administered by Lakehead University.

3. Purpose and Scope

3.1 The University's Sexual Violence Policy applies to all members of the university community, students, union and non-union staff, faculty, administration and members of the Board of Governors and visitors to Lakehead University. All survivors of sexual violence amongst these members are eligible to receive supports regardless of where the sexual violence occurred or by whom the violence was perpetrated. This policy is enforceable on all University property and University sponsored events when one of the complainant or respondent are afore mentioned members of the university community.

3.2 There is no statute of limitations for receiving supports as a sexual violence survivor or for reporting sexual violence.

4. Principles

4.1 Lakehead University is committed to the following principles with respect to sexual violence prevention and response:

- From a survivor-centred approach, believing and respecting all individuals who identify their experience as sexual violence as being the best judge of their own interests. The University, recognizing that an individual may not identify with either the label "victim" or "survivor", will respect each individual's preferred term in its interactions with the individual;
- Ensuring that those who disclose experiences of sexual violence of any kind are treated with dignity and respect;
- Assisting those who have experienced sexual violence in obtaining counselling and medical care, whether on or off campus;
- Providing those who experience sexual violence with appropriate academic and other accommodation(s);
- Providing those who have experienced sexual violence with comprehensive information about disclosing, reporting, and complaint options;
- Ensuring on-campus (internal) investigation and adjudication procedures are available to complaints of sexual violence,
- Ensuring procedural fairness and/or due process to all affected parties for investigation and adjudication of a complaint alleging sexual violence;
- Educating and training staff and students about responding to the disclosure of sexual violence; and

- Providing education and information to students, faculty and staff 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.

5. Confidentiality

5.1 Confidentiality of those who have disclosed or reported sexual violence should be safeguarded throughout the process to the extent possible including situations that warrant accommodation. A student who discloses sexual violence is protected under the Freedom of Information and Privacy Act. All files pertaining to sexual violence will be kept securely at the Office of Human Rights and Equity.

5.2. If an investigation is carried out, the names of those involved will not be released except as required to conduct the investigation or as required by law.

5.3 Confidentiality may be limited as follows, where

- There are reasonable grounds to believe that an individual is at imminent risk of self-harm;
- There are reasonable grounds to believe that one or more persons in the University and wider community may be at risk of harm;
- Reporting is required by law (e.g., in the case of a minor);
- A written complaint has been filed, triggering formal procedures including investigation;
- Any accommodation or support required may place limits on the level of confidentiality.

6. Disclosure

- a. Disclosure and responsible offices (including relaying of info to the OHRE) – includes roles and responsibilities of senior administrators
- b. Supports
 - i. Campus based
 - ii. Community based
- c. Accommodation
- d. Bystander Responsibilities

6.1 A person who experiences sexual violence or a bystander who is a witness, may choose to disclose sexual violence to any faculty or staff member. Disclosure, in these circumstances, is about confidentially sharing an account of what happened, seeking supports, services, and/or accommodation. Students who disclose are fully entitled to receiving supports, services and accommodations whether or not they also choose to report the sexual violence.

6.2 On-Campus Supports:

Name	Service	Email	Phone
LUSU: Gender Issues Centre	Peer-to-peer support		
LUSU: Pride Central	Peer-to-peer support		
LUSU: General	Peer-to-peer support		
LUSU: Orillia	Peer-to-peer support		
Ombudsperson	Advocacy	ombuds@lakeheadu.ca	
Human Rights and Equity	Disclosures, Reporting, Accommodations		
Wellness Centre - Orillia	Counselling, Referrals	orluwellness@lakeheadu.ca	
Student Health and Counselling – Thunder Bay	Counselling, Medical Services		
University Security	Reporting, Emergency		

6.3 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	
Sexual Assault/Domestic Violence Treatment Centre – Thunder Bay Regional Health Sciences Centre	1-807-684-6751	

Orillia:

Sexual Assault Treatment Centre	1-705-327-9155 1-877-377-7438	
North Simcoe Victim Crisis Services	1-705-325-5578	

6.4 Disclosure to a member of University administration will only trigger an investigation or formal procedure when there are grounds to believe that an individual is at imminent risk of self-harm or that others may be at risk of harm or when the person disclosing also wishes to report the incident.

- 6.5 Any University authority receiving a disclosure must report this disclosure to the Office of Human Rights and Equity, while still protecting the identity and confidentiality of the survivor.
- 6.6 The University shall appropriately accommodate the needs of students who are affected by sexual violence. Appropriate accommodations will be determined based on need. Accommodations can be made to support survivors' mental and physical well-being, promote their feelings of safety, and reduce their contact with the identified perpetrator so that they may continue their studies. The Office of Human Rights and Equity should be contacted to obtain such accommodations.
- 6.7 A bystander may choose to report acts of sexual violence that they witness or where they perceive a specific pattern of sexual misconduct that they believe is creating a hostile or toxic environment where they work, study, or live.
- 6.8 Supervisors of employees have a legal duty to address sexual harassment and sexual violence that they witness or of which they have been informed. (See Occupational Health and Safety Act and Human Rights Code). More generally, the University may have the duty to investigate complaints of sexual violence to address its civil, criminal and human rights obligations.

7. Reporting

- 7.1 A person who experiences sexual violence may choose to confidentially report sexual violence to the Office of Human Rights and Equity, while choosing not to file a formal complaint that triggers an investigation or formal procedure.
- 7.2 A bystander may choose to report acts of sexual violence that they witness or where they perceive a specific pattern of sexual misconduct that they believe is creating a hostile or toxic environment where they work, study, or live.
- 7.3 The record of the report will be used for aggregate data reporting and may be used by the person who has experienced sexual violence to lodge a formal complaint and initiate an investigation at a later date.
- 7.4 Where there are recurring confidential reports of sexual violence involving the same alleged perpetrator(s) or events, or where there is an imminent risk of harm to the individual who has experienced sexual violence or others, an investigation or formal procedure may be triggered. The confidentiality of those reporting will be maintained unless circumstances exist where confidentiality cannot be assured or may be limited.

8. COMPLAINT, INVESTIGATION, ADJUDICATION

8.1 Formal Complaints Process

8.1.1 Filing and initiating a formal complaint

- a) The Office of Human Rights and Equity is responsible for receiving formal complaints of sexual violence. Only a person who reports experiencing sexual violence (the “Complainant”) can choose to file a formal complaint under this Policy.
- b) In the event that a complaint is reported to the University anonymously the University’s ability to address the allegation will be dependent on a number of factors including the information available to substantiate the allegation and to permit a fair process. In such circumstances, the Office of Human Rights and Equity will make a determination on how to proceed under sections XXXXXXx of this Policy.
- c) A formal complaint can be filed with the Office of Human Rights and Equity if the individual who is said to have engaged in sexual violence is a member of the University community at the time of the incidents alleged in the formal complaint (the “Respondent”).
- d) If the Respondent’s relationship with the University ends and he or she is no longer at or with the University, the formal complaint process in this Policy may be suspended. If the Respondent returns and once again becomes a member of the University community, a formal complaint process may resume.
- e) A formal complaint must set out in writing the name of the Respondent, the nature and details of the circumstances, 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 from the Complainant on the information it contains.

8.1.2 Sexual Violence Assessment Committee

- a) The Sexual Violence Assessment Committee is comprised of:
Director of Human Rights and Equity (Chair)
Two Appropriate Authorities as chosen by the Director of Human Rights and Equity
- b) The Office of Human Rights and Equity will convene the appropriate authorities to form the Sexual Violence Assessment Committee. The Assessment Committee will assess the formal complaint and determine whether the conduct forming the basis of the complaint appears to fall within the definition of sexual violence as set out in this Policy.
- c) If the Assessment Committee considers that the conduct in question appears to fall within the definition of sexual violence as set out in Section XXX of this Policy, they will appoint an Investigator pursuant to paragraph XXXX of this Policy.
- d) If the Assessment Committee considers that the conduct does not fall within the definition of sexual violence as set out in this Policy, the Office of Human Rights and Equity will

convey this assessment to the Complainant and inform the Complainant of their right to request a review under 6.3 of this Policy and will provide the applicable timeless and procedures for requesting this review. In these cases the Assessment Committee may also refer the Complainant to another University policy or office as may be applicable or legally required.

8.1.3 Review of the initial assessment

A review of the Assessment Committee's assessment of the complainant can be made only if it is determined that the complaint falls outside the definition of sexual violence as set out in this Policy. In the Complainant disagrees with the determination that the complaint is outside the definition of sexual violence as set out in this Policy, then the Complainant may ask the University Secretary to review the assessment, if the Complainant submits the request in writing within ten (10) business days after the date of the determination. Upon review, the University Secretary's decision is final and will be communicated to the Complainant in writing.

8.1.4 Investigation

- a) Where the complaint is within the definition of sexual violence as set out in this Policy, the Assessment Committee will appoint an Investigator, with competence in conducting investigations related to allegations of sexual violence, to investigate the complaint.
- b) Where the Respondent is a unionized employee, the employee shall have all rights to any union representation during any investigatory meetings with the Employer. The Office of Human Rights and Equity receiving the complaint will inform the Assistant Director in Human Resources of the complaint and Human Resources will inform the appropriate Manager/Supervisor of the Respondent under any collective agreement.
- c) Once 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 formal complaint, enclosing a copy of the complaint and informing them of the name of the Investigator. This notice will indicate that the Respondent will have an opportunity to provide the Investigator with a written response to the complaint. Both the Complainant and the Respondent will be provided with a copy of the formal complaint process under this Policy.
- d) The investigation will be done in a timely fashion. The Investigator will ask the Respondent to respond in writing to the formal complaint. If the Respondent does not provide a written response within the time requested, the investigation will proceed in the absence of a response.
- e) The Investigator will send the Respondent's response to the Complainant, who can 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. The Investigator will examine all of the

information submitted by the parties as well as any other information gathered during the investigation. The Investigator may choose to conduct interviews with either or all parties at any time during the investigative process at the investigator's discretion or at the request of a party. The Investigator may also choose to seek witness information. All interviews will be conducted in a fair, impartial and professional manner. The Investigator will remind the individuals of the requirement to protect and keep confidential the personal information of the persons involved in the investigation.

- f) The Office of Human Rights and Equity is mandated to receive the complaint and will keep the Complainant and Respondent informed on the status of the complaint and of the investigation.

8.1.5 Investigation report

- a) Upon completion of the investigation, the Investigator will send a written confidential report containing the facts and information gathered during the investigation to the Office of Human Rights and Equity.
- b) The Office of Human Rights and Equity, when satisfied that the investigation was conducted fairly and properly, will then forward the investigation report to the Adjudication Panel along with a copy of the complaint, the response and any written replies.
- c) The Office of Human Rights and Equity will send the investigation report to the Complainant and the Respondent and remind them of the need to protect and keep confidential the personal information of those involved in the investigation and avoid acts of reprisal.

8.1.6 Sexual Violence Adjudication Panel

- a) The Sexual Violence Adjudication Panel is comprised of:
 - Vice-Provost (Student Affairs) – Chair when Respondent is a student
 - Associate Vice-President, Human Resources – Chair when Respondent is an employee
 - Deputy Provost
 - Legal Advisor will be available to the Panel

Members of the Adjudication Panel must have knowledge of proper investigative practices, of basic principles of fairness in complaint processes. The members of the Panel will receive training provided or arranged by the Office of Human Rights and Equity in the sensitive issues surrounding sexual violence, in procedures leading to fair resolution and in consequences or measures that may be appropriate to an incident of sexual violence and which act as deterrents to further occurrence of sexual violence. This training will not deal with the specific complaint currently before the Panel and is in no way meant to hinder the independence of any Panel

member to make a decision and/or recommendation based on the information provided to the Panel and according to their conscience.

- b) Once it has been decided that a complaint falls within the definition of sexual violence as set out in this Policy and an Investigator has been appointed, the Office of Human Rights and Equity will inform the Chair of the Sexual Violence Adjudication Panel. The Chair of the Adjudication Panel will notify panel members of an impending case.
- c) The Office of Human Rights and Equity will send a copy of the complaint, the response and any written replies as well as the final investigation report to the members of the Adjudication Panel who will review the report
- d) Normally within ten (10) business days after the investigation report, complaint, and replies are provided to the Adjudication Panel, the chair of the Panel will convene meetings and send a written notice of the meetings to the Complainant (assuming the Complainant has indicated a willingness to be part of the complaint, investigation and adjudication process) and the Respondent. The notice will indicate the date, time, place and purpose of the meetings as well as include a statement that if the Complainant or the Respondent does not participate in the meeting, the Adjudication Panel may proceed in their absence. Note: The Adjudication Panel will work with Complainants who prefer to participate in written format vs in-person.
 - i. As per Section 5, in the event that the University has become aware of sexual violence but no complaint has been filed by the survivor but the University has determined that an investigation must go ahead, then there is no obligation on the survivor to participate in the investigation. In such circumstances, the individual will not be asked to meet with the Adjudication Panel.
- e) The Adjudication Panel meetings will be arranged so that the Complainant and the Respondent do not meet face-to-face unless all parties wish to do so. The Adjudication Panel will 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 decisions and recommendations with respect to the outcome of the complaint
- f) The Adjudication Panel meetings will be conducted in person and in camera. Support persons (as referred to in paragraph X.X of this Policy) can attend as observers only and may not speak on behalf of or represent the Complainant or the Respondent.
- g) The Complainant and the Respondent will be afforded the opportunity to make written and oral representations to the Adjudication Panel at the meeting, including representations on the investigation report and on any potential consequences or measures. The Complainant and the Respondent are expected to speak for themselves. Members of the Adjudication Panel may ask questions of the Complainant and the Respondent and may invite witnesses as they deem necessary.

8.1.7 Decision of the Adjudication Panel

- a) 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 Adjudication Panel will:
- Decide whether the complaint is founded (whether sexual violence occurred) and the role of the Respondent.
 - Recommend consequences or measures it considers appropriate to remedy or mitigate any academic or employment harm or disadvantage arising from the complaint, to prevent its reoccurrence and to ensure the safety of all individuals.
- b) The decisions of the Adjudication Panel and the reasons in support of it must be in writing and delivered to the Complainant and to the Respondent. The decision of the Adjudication Panel will also be communicated to the Office of Human Rights and Equity. In accordance with the Freedom of Information and Protection of Privacy Act, the Complainant has the right to know the outcome of the investigation but not the details of the disciplinary actions or consequences taken against the Respondent unless the University, for protection of the Complainant's health and safety, deems sharing the information necessary. In the case of an employee, the decision of the Adjudication Panel will also be communicated to the appropriate Manager/Supervisor/Dean. If the Panel decides that the complaint is founded and the Respondent involved was a unionized employee, a summary statement will be provided that protects the confidentiality of all complainants and witnesses and include the Panel's findings, its recommended consequences and measures.
- c) Consequences or measures in response to sexual violence will depend on the circumstances, on the severity of the conduct, on any mitigating factors and on applicable collective agreements or other University policies. If a complaint of sexual violence is substantiated, consideration will 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 all individuals. The following list provides examples of consequences and measures and is not meant to be exhaustive nor necessarily does it represent a progression of consequences or measures:
- A letter of apology;
 - Attendance at educational sessions on the impact of sexual violence;
 - Attendance at coaching sessions to improve communication and/or conflict resolution skills;
 - Restricted or prohibited access to University campuses and/or services;
 - For students – suspension or ban from the University; and
 - For employees – discipline up to and including termination;
 - In circumstances where the Respondent is a unionized employee, the appropriate Manager/Supervisor/Dean under the applicable collective agreement will decide on

consequences or measures and on the imposition of any disciplinary measures. Disciplinary processes and measures shall be in accordance with the collective agreement applicable to the Respondent employee.

8.2 General Provisions on the Formal Complaint Process

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

8.2.2 **Choice not to file a formal complaint or not to investigate** – A person may choose not to file a formal complaint under Section XXXX of 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 person. 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.

8.2.3 In the event that the University initiates an investigation in the absence of a complaint, the Assessment Committee will appoint an investigator who will investigate the matter, and while the identity of the survivor will be kept confidential, will provide the Assessment Committee with a written confidential report containing the facts and information gathered during the investigation. The Committee will consult with any necessary internal authorities on the investigation report and on the appropriate means for further addressing the matter.

8.2.4 **Withdrawal of a complaint** – A Complainant who has filed a formal 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 does not mean that the University may not proceed with an investigation if it is determined that there remains a legal obligation or safety concern, as per section 5.

8.2.5 **Harassment and/or discrimination** – Complaints of harassment and/or discrimination that do not involve sexual violence, sexual harassment or workplace sexual harassment will be addressed through the University's Harassment and Discrimination Policy and not through this Policy. However, only this Policy applies if the circumstances of a report or a complaint of sexual violence also encompasses harassment and/or discrimination.

8.2.6 **Support Person** – The Complainant or the Respondent can be accompanied by a support person of their choice at any time during the formal complaint process as outlined in this Policy. The support person can provide encouragement or other emotional or moral support and may accompany the Complainant or Respondent to meetings. The support person's role is not to act or speak on behalf of the Complainant or Respondent. Representations

(both oral and written) must come directly from the Complainant and Respondent. The support person must also agree in writing to maintain confidentiality in accordance with this Policy.

8.2.7 Confidentiality – In addition to the provisions on confidentiality contained in section **XXXXXX** of this Policy, when a formal complaint is filed under the formal complaint process of this Policy, the following applies:

- a) Confidentiality of information disclosed at any time pursuant to this Policy is to be maintained to the extent possible, consistent with the University's need to respond appropriately to the situation and to the safety of members of the University community. This means that information about situations may be disclosed as provided for in this Policy only to those who need to know in order to investigate and/or address the formal complaint. Where possible, the person filing a formal complaint will be consulted before any disclosure of information is made and will be informed of any decision to disclose and to whom information was disclosed.
- b) To ensure procedural fairness while a formal complaint process is underway, the Complainant, the Respondent and others who may have knowledge of the matter, including a support person, must maintain confidentiality in accordance with this Policy and not make public statements pending the outcome of the complaint. Breaches of confidentiality may jeopardize the proper handling of the matter and the functioning of the formal complaint process outlined in this Policy. If a breach of confidentiality occurs, the circumstances of the breach and its impact on properly addressing the matter and the fairness of the formal complaint process may be considered in handling the matter and in processing the formal complaint. The confidentiality obligations do not prevent a person from seeking counselling, treatment and/or other support services.
- c) Information disclosed by a person during mediation under this Policy is without prejudice to that person and cannot be used during subsequent steps in handling the matter or in the formal complaint process under this Policy. Any person conducting a mediation of a complaint cannot be called to testify in a subsequent proceeding in relation to information disclosed during mediation, unless ordered or compelled by a court, tribunal or arbitrator.
- d) Documents and information related to a formal complaint, including the written formal complaint, written responses, witness statements, investigation notes and reports, and documents related to the formal complaint and its investigation will be securely maintained by the Office of Human Rights and Equity.

8.2.8 Timelines – The timelines mentioned in this Policy are meant to ensure that the matters are dealt with in a timely fashion. There may be, in compelling circumstances, reasons to extend a timeline. In such cases, where the request is in good faith and the extension does not prejudice or harm those involved in the complaint, extensions may be granted. It can be difficult to determine appropriate timelines for the resolution, investigation or final

disposition with respect to a formal complaint. Therefore, where no timelines are mentioned in this Policy, the intention is always to use a reasonable time period and to act as expeditiously as possible in light of the nature and the complexity of the circumstances of the complaint and in light of other circumstances that may arise during the process that are beyond the party's reasonable control.

8.2.9 Applicable collective agreements – The formal complaint process provided in this Policy is not meant to replace or supersede complaint or investigation processes in applicable collective agreement provisions. If there is an applicable collective agreement, the formal complaint will be dealt with under the relevant provisions of that collective agreement. Where there is more than one applicable collective agreement, the formal complaint will be dealt with under the relevant provisions of the collective agreement applicable to the Respondent. Where there is no applicable agreement or no relevant provisions within a collective agreement, the complaint will be handled in accordance with this Policy.

8.3 Interim measures

8.3.1 The Office of Human Rights and Equity may put interim measures into place when the University concludes that such measures are necessary to protect the safety and security of a Complainant or the members of the University community.

8.3.2 The decision to impose interim measures will balance the safety and security of the Complainant, other members of the University community with the rights of the Respondent to fairness and natural justice.

8.3.3 Where interim measures are necessary the University will seek to impose such measures that at the least disruptive to the Respondent but will still achieve the University's goal of promoting safety and security.

8.3.4 A non-exhaustive list of interim measures is outlined in paragraph XXXXXX of this Policy.

8.3.5 These interim measures do not include the interim accommodations and measures that are available to the survivor/Complainant at any time from the point of disclosure, regardless of whether a formal complaint is made.

8.4 Appeal Process

8.4.1 An appeal is not an opportunity for the Complainant or Respondent to repeat the information provided to the Adjudication Panel. The right to an appeal is not automatic and an appeal will only be considered if it meets the following requirements:

- The appeal is a final decision of the Adjudication Panel;
- An appeal can only be made by either the Complainant or the Respondent;
- The appeal must include the reasons for the appeal, the reasons why the appeal should be granted, the arguments in support of the appeal and the outcome sought;

8.4.2 The person seeking to appeal must demonstrate that:

- There has been a fundamental procedural error in the making of the final decision and that such error has caused or will cause actual prejudice to the person seeking the appeal; or,
- There are new facts relevant to the final decision that were not available and could not have been provided to the Adjudication Panel.

8.4.3 The following is a non-exhaustive list of some examples of situations where an appeal would not meet the requirements of this paragraph:

- The appeal asks for a review of a consequence or measure that has not yet been finally decided;
- The appeal repeats arguments made at the meeting of the Adjudication Panel or in written submissions and does not provide any new information relevant to the final decision;
- The appeal is based only on a disagreement with a finding of fact, including findings made about the credibility of witnesses;
- The appeal raises new arguments that were not made, but could have been made at the Adjudication Panel meeting or in written submissions or to the appropriate Manager/Supervisor/Dean;
- The appeal amounts to a mere speculation or a bald statement of a procedural error causing prejudice and does not provide detailed and convincing information to establish the error and to establish a link between the error and actual prejudice or a reasonable expectation of prejudice to the person seeking the appeal.

8.4.4 If the Appellant is an employee, the appeal must be made to the University Secretary. Following receipt of the appeal, the University Secretary will convene a Sexual Violence Appeal Tribunal. The Appeal Tribunal consists of the:

- Provost and Vice-President (Academic), or delegate ???
- Vice-President, Administration and Finance, or delegate ???
- AVP Financial Services ?????

8.4.5 If the appellant is a student, the appeal must be made to the Secretary of the Judicial Panel (Dr M Shaw) and the appeal will be considered by an Appeal Tribunal as provided for in the Code of Student Behaviours and Disciplinary Procedures (the “Code”).

8.4.6 The appeal process is conducted in writing. The Complainant or Respondent, as the case may be, does not need to respond to the appeal unless the Appeal Tribunal sends a letter requesting they to do so.

8.4.7 The Appeal Tribunal reviews the appeal, determines whether the appeal meets the requirements of paragraph XXXX of this Policy and makes the decision either dismissing or granting the appeal. All decisions of the Appeal Tribunal are final.

9. Communication, Education and Information

- e. Communication
 - i. Internal
 - ii. external
- f. Statistics
- g. Campaigns
- h. Prevention Education and training

9.1 Institutional Responsibility to Provide Support and Timely Communication

9.1.1 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. The University will provide access to professional support personnel and a central point of access for guidance and assistance.

9.1.2 To facilitate this support and communication the University will:

- Ensure that designated staff members who are knowledgeable about sexual violence are responsible for advocacy on campus on behalf of students and employees who have experienced sexual violence;
- Ensure that designated staff members are responsive to the needs of those who have experienced sexual violence and that they respond in a prompt, compassionate, and personalized fashion;
- Ensure that individuals who have experienced sexual violence are provided with reasonable updates about the status of any University investigation when such investigations are undertaken in response to an incident of sexual violence;
- Maintain and update a "Sexual Assault 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
 - Contact information and links for campus and community resources;
- Report on aggregate data and other information in conformity with any requirements by the Province of Ontario.

9.2 Institutional Responsibility to Provide Training and Education

9.2.1 The University will strive to provide proactive, sustained and multifaceted training opportunities to all members of the University community to better enable members of the community to assist and support those who have experienced sexual violence.

9.2.3 Staff members dedicated to providing assistance and advocacy to those who have experienced sexual violence as well as members of Security Services and judicial investigators will receive access

to specialized training around response to sexual violence. Individuals in front-line student academic and services roles will receive educational opportunities and training opportunities to assist and support those who experience sexual violence.

9.3 Members of the university community are encouraged to contribute to the prevention of, intervention in, and effective response to, sexual violence. All members of the university community play a role in building a safe and just educational environment.

9.4 Collection and Dissemination of Information

9.4.1 To increase awareness of sexual violence on campus and to fulfill obligations under Bill 132, Lakehead University will post information through Security Services on incidents and complaints of sexual violence as reported by students and provide to the Ministry such data and other information as may be requested including:

- Number of times supports, service and accommodation relating to sexual violence are requested and obtained by students and information about the supports, services and accommodations;
- Initiatives and programs to promote awareness of supports and services available to students;
- Number of incidents and complaints of sexual violence reported by students, and information about such incidents and complaints;
- Implementation and effectiveness of the sexual violence policy.

9.4.2 Lakehead University may also conduct or participate in a survey relating to the effectiveness of the university's sexual violence policy, to the incidence of sexual violence and to the items listed above in this section. As directed by the Ministry, Lakehead University shall disclose the results of the survey to the Minister.

9.4.3 Lakehead University shall take all reasonable steps to ensure that information provided to the Minister pursuant to its obligation under Bill 132 does not disclose personal information within the meaning of section 38 of the *Freedom of Information and Protection of Privacy Act*.

10. Policy Review

10.1 Annual Report to Board of Governors

Lakehead University shall, as pursuant to Bill 132, provide its board of governors with an annual report setting out for the previous year, information as described in Section 13.1.

10.2 Policy Review

Lakehead University shall review this policy at least once every three years ensuring that consultation include student input is considered as pursuant to Bill 132, Section 17 (4).

Appendix A. 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 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)