

## Policies, Procedures and Guidelines

Complete Policy Title:

**Sexual Violence Policy**

Policy Number (if applicable):

Approved by:

**Senate Executive /**

**Executive and Governance Committee of  
the Board of Governors**

Date of Most Recent Approval:

**January 26, 2022 /**

**February 7, 2022**

**effective February 7, 2022**

Date of Original Approval(s):

December 14, 2016 / December 15, 2016  
effective January 1, 2017

Supersedes/Amends Policy dated:

December 11, 2019 / December 12, 2019  
effective January 1, 2020

December 14, 2016 / December 15, 2016  
effective January 1, 2017

Responsible Executive:

**Associate Vice-President, Equity and  
Inclusion**

Policy Specific Enquiries:

[Equity and Inclusion Office](#)

Reviewed for Compliance (OHSA):

April 17, 2024

General Policy Enquiries:

[Policy \(University Secretariat\)](#)

Non-Substantive Revisions

June 21, 2021 – title change

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## SECTION I: INTRODUCTION

### PURPOSE

1. All members of the University Community (“Community Members” see clause 5 below) have a right to study, work, and live in an environment that is free of [Sexual Violence](#).
2. The purpose of this Policy is to:
  - a) articulate McMaster University's commitment to Sexual Violence prevention and response;
  - b) identify services and resources related to **Sexual Violence** that are available to all members of the McMaster University Community (“University Community”); and
  - c) explain the complaint and reporting options, supports, and accommodations that are available to all members of the University Community who experience Sexual Violence.

### SCOPE

3. **Sexual Violence**<sup>1</sup> 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.
4. This Policy prohibits all forms of Sexual Violence:
  - a) acts of [Sexual Assault](#), which fall under the broad definition of Sexual Violence, are considered a violation of this Policy and its procedures below shall apply; and
  - b) acts of [Sexual Harassment](#), which fall under the broad definition of Sexual Violence, may be considered violations of the [Discrimination & Harassment Policy](#) and its procedures may apply.
5. The Policy applies to:
  - a) **all Members of the University Community** (“Community Members”) include: students (graduate, undergraduate, and continuing education), staff, faculty, medical residents, volunteers, visitors (including visiting professors), and institutional administrators and officials representing McMaster University; and
  - b) **all University-related activities**, which are activities ([authorized](#) and [non-authorized](#)) where there is a clear nexus to the working or learning environment at the University (on and off University premises).
6. When allegations of Sexual Harassment are to be processed under the *Discrimination & Harassment Policy*, there may be circumstances where the allegations in a Complaint necessitate following the procedures under both this Policy and the *Discrimination & Harassment Policy*.
7. Where a Complaint is filed that involves behaviour prohibited by this Policy, as well as behaviour more appropriately dealt with under the *Discrimination & Harassment Policy*, the Complaint may be processed under the *Discrimination & Harassment Policy*, without compromising the Complainant's right to access the specialized supports available through the Sexual Violence Prevention and Response Office. However, any proceedings related to the Complaint will determine if there has been a violation of the *Discrimination &*

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<sup>1</sup> [Ministry of Training, Colleges and Universities Act, R.S.O. 1990, c. M.19](#)

*Harassment Policy*, in addition to any findings related to this Policy. The decision regarding which policy or policies are most appropriate will be made by the University.

8. Unless otherwise specified in this Policy, the Policy and its provisions apply where the University has the jurisdiction to pursue, adjudicate, or take steps to safeguard the University community.

## MCMASTER'S COMMITMENT

9. Notwithstanding the limits of confidentiality, described below, the University recognizes that enabling confidential disclosures of experiences of Sexual Violence enhances individual and community safety. The University is committed to creating an environment in which Community Members feel able to disclose experiences of Sexual Violence and access support, accommodations and information on complaint and reporting options under the [Sexual Violence Response Protocol](#).
10. The University recognizes that making a [Disclosure](#), filing a [Complaint](#), or being the focus of allegations of Sexual Violence may be difficult. The University is committed to ensuring that all individuals making disclosures or who are parties to a complaint, be they [Complainants](#) or [Respondents](#), will be treated with dignity and respect, will be guaranteed due process and procedural fairness, will be afforded privacy and confidentiality within its reasonable limits, and will have access to appropriate support and assistance throughout.
11. A student who, in good faith, reports an incident of, or makes a Complaint about, Sexual Violence, will not be subject to discipline or sanctions for violations of the university's policies relating to drug or alcohol use at the time the alleged Sexual Violence occurred.
12. A student who discloses their experience of Sexual Violence through reporting an incident of, making a Complaint about, or accessing supports and services for Sexual Violence, will not be asked irrelevant questions during the investigation process by the university's staff or investigators, including irrelevant questions relating to the student's sexual expression or past sexual history.
13. When a University complaint process is initiated, the University is committed to providing an intake, investigation, and adjudication process that is trauma-informed, timely, and follows the principles of procedural fairness.
14. The University is committed to addressing Sexual Violence in a manner that is informed by current knowledge, scholarship and best practices in understanding how Sexual Violence intersects with other forms of violence and social inequities.
15. The University recognizes that the experience of Sexual Violence can be traumatic, having negative immediate and/or longer-term effects on an individual's physical, mental, emotional, spiritual, and social health and wellbeing. The University is committed to providing appropriate trauma-informed support, accommodations, resources and referrals.
16. The University recognizes that socially marginalized individuals (on the basis of factors such as race, disability, Indigeneity, sexual orientation, gender identity and gender expression, religion, spirituality, age, citizenship and socio-economic status) experience disproportionately higher incidences of sexual and other forms of violence. The University is committed to ensuring culturally respectful and relevant supports and services that are attuned to systemic social inequities. The University recognizes that individuals from diverse communities who face systemic barriers and discrimination may be reluctant to disclose Sexual

Violence to institutional authorities. The University is committed to examining and eliminating individual bias and institutional barriers in the organization and delivery of its services and supports.

## POLICY REVIEW

17. The Policy will be reviewed annually for compliance with the *Occupational Health & Safety Act*. The Policy will be reviewed every three years in accordance with the *Sexual Violence and Harassment Plan Act* in a process inclusive of input from students, key University constituencies, women's organizations and other community partners with expertise in Sexual Violence.
18. Student participation in the three-yearly policy review process will be coordinated by the [Equity and Inclusion Office](#) in collaboration with the McMaster Student Union, and the McMaster Graduate Student Association, and will include a diverse cross-section of campus partners with experience and expertise related to Sexual Violence prevention and response.

## TERMS AND DEFINITIONS

19. A full glossary of terms and definitions may be found in [Appendix A](#).
20. For the purpose of interpreting this document:
  - a) words in the singular may include the plural and words in the plural may include the singular
  - b) Directors, members of the Administration, and Decision-Makers in this Policy may, where appropriate, delegate their authority;
  - c) **AVP Equity and Inclusion** means the Associate Vice-President, Equity and Inclusion;
  - d) **Chief Human Resources Officer** means the Assistant Vice-President & Chief Human Resources Officer;
  - e) **Dean of Students** means the Associate Vice-President (Students and Learning) and Dean of Students;
  - f) **Director (ELR)** means the Executive Director, Employee & Labour Relations;
  - g) **Director (HRDR)** means the Director, Human Rights & Dispute Resolution Program;
  - h) **Director (SVPRO)** means the Director, Sexual Violence Prevention and Response Office;
  - i) **Director (SSCM)** means the Director, Student Support & Case Management Office;
  - j) **Hearing Procedures** means the Hearing Procedures for the Board-Senate Hearing Panel for Discrimination, Harassment, and Sexual Violence;
  - k) **Provost** means the Provost and Vice-President (Academic);
  - l) **Tenure and Promotion Policy** means the McMaster University Revised Policy and Regulations with Respect to Academic Appointment, Tenure and Promotion; and
  - m) **Security Services** means McMaster University Security and Parking Services.

## SECTION II: OPTIONS AND SUPPORTS

### OPTIONS

21. Community Members who believe there has been a violation of the Policy have a number of options available to them: **Disclosure**, **Reporting** (under the Policy and includes filing a Complaint, and/or Voluntary Resolution), making a **Criminal Report**, or **Other External Options**.
22. Prior to pursuing one of the options below, [Community Members](#) should read [Section III: Confidentiality](#). It is important to be aware that, **depending on the circumstances and nature of the incident disclosed**, the University may be obliged to:
  - a) conduct a triage of violence risk;
  - b) initiate a University-led Investigation of the incident regardless of whether or not the individual making the disclosure chooses to participate in the process; and/or
  - c) notify Hamilton Police Services of the allegation and name of the individual who is the subject of the allegation and/or contact other relevant agencies to fulfill legal obligations.
23. Individuals are encouraged to consult with the Director (SVPRO), who will provide holistic support for disclosures, assistance with requests for accommodation, and advice on options, at any point in time, regardless of how the individual chooses to proceed.
24. While encouraged to contact the [Director \(SVPRO\)](#) for disclosure support, complaint intake, and reporting options, Community Members who experience Sexual Violence may choose to contact any one of the [Intake Offices](#) to make a Complaint pursuant to the Sexual Violence Policy.
25. Disclosing an experience of Sexual Violence is a separate decision from making a report. Each decision will result in different levels of University involvement and action.

### **DISCLOSURE**

26. A Disclosure is made when an individual informs a Community Member about an experience of Sexual Violence because they wish to access support, accommodations and/or information about their options, under the [Sexual Violence Response Protocol](#).

### **REPORTING**

27. A Report occurs when an individual determines that they wish to pursue an official Complaint through one or more of the following avenues: a Complaint to the University under this Policy, Voluntary Resolution under this Policy, a Criminal Report through the justice system, or other reporting options external to this Policy. Reporting options are not mutually exclusive.
28. Individuals who file a Report may ultimately be required to attend/participate in a hearing, either internal to the University, or external through arbitration, or criminal court, etc.

**Complaint**

29. A Complaint is made when an individual submits an Incident Report to their Supervisor, or a written **statement of [Complaint to the Director \(SVPRO\)](#) or an [Intake Office](#)** making an allegation of Sexual Violence because they wish to initiate a formal University process, which may require an Investigation into the allegations and finding of facts.

**Voluntary Resolution**

30. In certain circumstances, a Complainant and Respondent may be interested in attempting a resolution of a Complaint at any time before the completion of an Investigation.
31. The following conditions must be present before considering if Voluntary Resolution is a viable option:
- a) the University is able to meet its responsibilities pursuant to the *Occupational Health & Safety Act*; and
  - b) the Complainant and the Respondent both agree to:
    - (i) attempt to reach a resolution in good faith;
    - (ii) the methods to be used to seek resolution; and
    - (iii) the terms of what would constitute resolution.
32. A meeting between the Complainant and the Respondent will **not** be a requirement for Voluntary Resolution.
33. A Voluntary Resolution may be facilitated by an [Intake Office](#), and the methods may include fact-finding discussions, clarification of the issues, facilitated conversations, mediation, coaching, voluntary no contact agreements, reconciliation, restoration processes, workplace restoration processes.

**CRIMINAL REPORT**

34. A Criminal Report is made when an individual files a report of Sexual Violence with a police service or with [Security Services](#). Filing a Criminal Report with Security Services will result in a report to [Hamilton Police Service](#).

**OTHER EXTERNAL OPTIONS**

35. Individuals may exercise other University options external to this Policy (e.g. the grievance provisions of applicable collective agreements) or other options external to the University (e.g. through civil litigation or *Ontario Human Rights Code* provisions).



OPTIONS CHART

**Central Sexual Violence Complaint Intake Office**

[Sexual Violence Prevention and Response Office](#), Equity and Inclusion Office (All Community Members)

**Additional Complaint Intake Offices**

[Human Rights & Dispute Resolution Program](#), Equity and Inclusion Office (All Community Members)

[Student Support & Case Management Office \(SSCM\)](#), Student Affairs (Students)

[Employee and Labour Relations \(ELR\)](#), Human Resources Services (Faculty and Staff members)

[Faculty of Health Sciences \(FHS\) Professionalism Office](#) (FHS Community Members)

**DISCLOSURE**

Informing someone in the University community about an experience of Sexual Violence because they wish to access support, accommodations and/or information about their options.

**CRIMINAL REPORT**

When an individual files a report of Sexual Assault with a police service or with [Security Services](#). Filing a report with Security Services will result in a report to Hamilton Police Services.

**COMPLAINT**

A Complaint can be initiated through completion of an Incident Report submitted to a Supervisor, or through submitting a written Complaint with the [Sexual Violence Prevention and Response Office](#) or through one of the Intake Offices (listed above) making an allegation of Sexual Violence because they wish to initiate a University process, which may require an investigation and finding of facts.

**OTHER EXTERNAL OPTIONS**

Options external to the University (e.g. civil litigation or Ontario Human Rights Code provisions) or other options external to this Policy (e.g. grievance provisions of applicable collective agreements)

**VOLUNTARY RESOLUTION**

Attempting a resolution of a Complaint at any time *before* the completion of an Investigation.

## SECTION III: CONFIDENTIALITY

### CONFIDENTIALITY (LIMITATIONS)

36. The University recognizes the importance of confidentiality both for individuals coming forward to Disclose or Report an experience of Sexual Violence and for individuals who are the subject of a Complaint, and will take steps to protect the confidentiality of both parties to the extent permitted by its legal obligations outlined below.
37. The University and its employees and agents will protect personal information and handle records in accordance with the *Freedom of Information and Protection of Privacy Act* and the *Personal Health Information Protection Act*, where applicable in the circumstances, with the provisions of applicable collective agreements and, in the case of health care providers, in keeping with any professional obligations.
38. When making a Disclosure or Report to any University office, individuals shall receive clear and transparent information about the level of, and limits to, confidentiality that apply.
39. The University recognizes that confidentiality is a crucial consideration in creating an environment in which individuals feel able to [Disclose](#) incidents of [Sexual Violence](#) and to access [Support](#), [Accommodations](#), and information. The University will share identifying information only in circumstances where it is necessary in order to administer this Policy, to address safety concerns, or to satisfy a legal reporting requirement. In such circumstances, the minimum amount of information needed to allow such concerns to be addressed, or to meet such requirements, will be disclosed. Such circumstances include those where:
  - a) an individual is at risk of harm to self;
  - b) an individual is at risk of harming others;
  - c) there are reasonable grounds to be concerned about risk of future violence or the safety of the University and/or broader community;
  - d) disclosure is required by law, for instance, suspected abuse of someone under the age of 16, reports of intimate partner/domestic violence, or to comply with legislation, such as the *Occupational Health and Safety Act* the *Workplace Safety and Insurance Act*, or with human rights legislation; and/or
  - e) to comply with the reporting requirements of regulatory bodies and/or professional licensing bodies.
40. Where there are reasonable grounds to be concerned about risk of future violence or the safety of the broader community or the public, or where the University is otherwise obligated to do so, the University may report the incident to Hamilton Police Services. In these situations:
  - a) the relevant [Decision-Maker](#) will be responsible for making the decision to disclose information to Hamilton Police Services;
  - b) the name of the Respondent, if known, will be shared; and
  - c) the name of the Complainant will not be shared without their consent, unless doing so would address a reporting obligation or mitigate a safety risk.

41. Some offices and Community Members have additional limitations to confidentiality because of their particular reporting requirements or professional obligations. For example:
  - a) all regulated health professionals are obligated to report suspected sexual abuse of a patient by a regulated health professional to that professional's governing body if this information is acquired during the course of their practice; and
  - b) Special Constables in [Security Services](#) are required to investigate reports of abuse of someone under the age of 16 and reports of intimate partner/domestic violence and to lay charges in all cases when there are reasonable grounds to believe a criminal offence has been committed, regardless of whether the target of the violence wishes to have further involvement with the legal process.
42. As part of the University's responsibility to maintain an environment free from Sexual Violence, information may be shared on a need-to-know basis.
43. Procedural limits to confidentiality may also occur if the University is subject to legal proceedings that, in the opinion of the Provost or the Vice-President (Operations and Finance), require the disclosure of information.
44. The importance of preserving the confidentiality of Complaints and any related proceedings will be explained to all parties as a necessary measure to protect the integrity of the proceedings.

## SECTION IV: PROCEDURAL GUIDELINES

### ADVISOR / SUPPORT PERSON

45. An Individual who is a party to a Complaint may be accompanied by an [Advisor](#), a [Support Person](#) or legal counsel at any stage of any of the procedures outlined in this Policy. Any costs of accompaniment or representation are to be borne by the individual.

### TIME LIMITATIONS FOR BRINGING FORWARD A COMPLAINT

46. There are no time limitations on bringing forward a [Complaint](#). However, individuals are encouraged to report a Complaint at the earliest opportunity, as the longer the time lapse between the incident and the Complaint, the more difficult it becomes to investigate effectively. Once a Complaint is received, it will be dealt with as expeditiously as possible.

### REPRISAL

47. The University prohibits reprisal or threats of reprisal against any person who, sincerely and in good faith, makes use of this Policy or participates in any process held under its jurisdiction. Any individual who is concerned that they are the subject of reprisals or threats should report their concerns to an Intake Office. Where appropriate, sanctions under the relevant policy (including this Policy, [Discrimination & Harassment Policy](#), and/or the [Code of Student Rights and Responsibilities](#)) legislation or contract, may be applied against the individual(s) responsible for the reprisal.

### INTERIM MEASURES AND ONGOING SUPPORT OF ALL PARTIES

48. At any stage in proceedings under this Policy it may be necessary to take Interim Measures in order to safeguard the environment of Community Members who are involved or may be affected. Interim Measures shall not be construed as evidence of either guilt or a finding of violation of this Policy, or as an affirmation of innocence/finding of non-violation of this Policy.
49. The authority to approve Interim Measures will rest with the relevant [Decision-Maker](#) in line with the Respondent's reporting structure.
50. Interim Measures will be reviewed on an ongoing basis by the Director of the appropriate [Intake Office](#) throughout the process to ensure the measures remain necessary and appropriate in the circumstances. Interim Measures are temporary and do not extend beyond the final resolution of a Complaint.
51. Interim Measures may include, but are not limited to, the rearrangement of academic/employment responsibilities or oversight, an administrative leave of absence, the rearrangement of residence location (where possible), adjustments in University activities (e.g. attendance at guest lectures, social events), issuance of a no contact order, or implementation of a [persona non grata](#) declaration.
52. In the event an [Employee](#) is directed to take an administrative leave as an Interim Measure, the conditions of the administrative leave shall accord with the terms of any applicable collective agreement. In the absence of an applicable collective agreement (e.g. where the employee is faculty or The Management Group (TMG)), the leave shall be without loss of pay or benefits. It is understood that an administrative leave as an Interim Measure is non-disciplinary and is designed to separate a person from a situation or another

person until the matter has been resolved. During such period, the person can continue to access relevant University [Support Services](#).

53. Should an Investigation extend beyond six months, there will be a full review by the [Response Team](#) in consultation with the Decision-Maker to assess progress, to consider fairness to all parties, thoroughness, timeliness, and confidentiality, and to consider any necessary next steps.

## DATA GATHERING & RECORD KEEPING

54. The [Director \(SVPRO\)](#) is responsible for: maintaining and reporting data relating to Sexual Violence consultations and disclosures as well as prevention education and response training initiatives and programs.
55. The [Equity and Inclusion Office](#) is responsible for collecting and reporting annual anonymized, aggregate data on Consultations, Disclosures, Complaints, Investigations, and all Outcomes and Sanctions, to the Senate and the Board of Governors.
56. Data for the annual report is collected and maintained by the Equity and Inclusion Office and includes data collected from the Sexual Violence Prevention and Response Office, the Human Rights and Dispute Resolution Program, Employee & Labour Relations, the Student Support & Case Management Office, the Faculty of Health Sciences Professionalism Office, and Security Services. The purpose of the annual report is to inform education and training initiatives.
57. In developing the annual report, the utmost care will be taken to ensure that individuals' identities remain confidential and that data gathering does not discourage individuals who wish to disclose from coming forward.
58. All notes, materials, Investigation reports, and decisions, pertaining to Complaints will be kept by the relevant Intake Office for seven years. These records may be retained longer, subject to the discretion of the appropriate Director.

## SECTION V: ROLES AND RESPONSIBILITIES

### SENIOR ADMINISTRATION

59. The Senior Administration has overarching responsibility for maintaining a University environment in which Sexual Violence is unacceptable, for providing the resources required to support such an environment, and for ensuring the timely development and review of relevant policies through Senate and Board of Governors procedures.
60. In addition, the Senior Administration is responsible for enabling Community Members to function with the highest standards of integrity, accountability, and responsibility. Activities may include disseminating information about the University's expectations and providing education to all Community Members on issues related to Sexual Violence.

### ASSOCIATE VICE-PRESIDENT, EQUITY AND INCLUSION

61. The [AVP Equity and Inclusion](#) oversees the Equity and Inclusion Office, which houses the Sexual Violence Prevention and Response Program and the Human Rights and Dispute Resolution Program, both of which play roles in campus sexual violence prevention and response.
62. The AVP Equity and Inclusion is accountable for leading a coordinated campus sexual violence prevention and response effort in collaboration with campus partners, including convening a working group, representative of McMaster's diverse student, faculty and staff populations, to advise on the effectiveness of campus sexual violence prevention and response efforts.

### DIRECTOR, SEXUAL VIOLENCE PREVENTION AND RESPONSE OFFICE

63. The [Director \(SVPRO\)](#), is responsible for establishing the Office as a central University resource for any Community Member who has experienced any form of Sexual Violence, including sexual assault, sexual harassment, and intimate partner violence, or any Community Member seeking information or consultation on issues related to trauma-informed response and support or prevention education and response training.

#### **Inclusive, Trauma-Informed Response and Support**

64. Community Members who Disclose an experience of Sexual Violence to a member of the Sexual Violence Prevention and Response Office, can expect that the Office will:
  - a) provide trauma-informed response and support;
  - b) consider safety measures that may be necessary;
  - c) make a referral for medical services as needed;
  - d) actively and empathically listen to individual needs and concerns without judgment;
  - e) share reporting options available;
  - f) clarify commitments to Confidentiality and its Limits;
  - g) explain the difference between Disclosure and Reporting;
  - h) make a referral to police if the individual chooses that option;
  - i) conduct a Complaint intake if the individual chooses that option;
  - j) assist the individual to navigate any relevant University systems and procedures;

- k) facilitate workplace, academic, and/or residence accommodations;
  - l) consider differing cultural needs and offer/refer to culturally relevant supports;
  - m) provide information about and referral to campus and community services;
  - n) liaise with relevant partners to ensure coordinated response and support; and
  - o) facilitate ongoing assessment, planning and case management.
65. The Director (SVPRO) is responsible for providing guidance to Community Members who consult on Disclosures they receive, providing information on how to support the individual and facilitate a referral, and assessing whether the limits of confidentiality apply.

### **Prevention Education and Response Training**

66. The [Director \(SVPRO\)](#) is responsible for overseeing a prevention education and training response program, including:
- a) promoting the [Health & Safety Training](#) Program's *Violence & Harassment Prevention* training that is coordinated by Environmental & Occupational Health Support Services;
  - b) educational initiatives for the campus community that are attuned to the broader social context in which Sexual Violence occurs and includes topics such as: addressing sexual violence myths and misconceptions, promoting healthy masculinity, creating a culture of consent; and
  - c) training initiatives for frontline campus community and student-facing service providers, and for those with particular responsibilities related to this Policy, that integrate an intersectional anti-oppressive trauma-informed analysis of Sexual Violence. Training will include skill-building related to receiving Disclosures and providing appropriate support and referral to University and external resources for community members.
67. The University Secretary, in consultation with the Director (SVPRO) will ensure that the members of the [Board-Senate Hearing Panel for Discrimination, Harassment, and Sexual Violence](#) receive appropriate education and training on Sexual Violence .

### **INTAKE OFFICES**

68. While encouraged to contact the Director (SVPRO) for disclosure support, complaint intake, and reporting options, Community Members who experience Sexual Violence may alternatively choose to file an incident report with their Supervisor (in the case of staff) or make a Complaint to one of the following Intake Offices:
- a) [Human Rights & Dispute Resolution Program \(HRDR\)](#), Equity and Inclusion Office (All Community Members)
  - b) [Student Support & Case Management Office \(SSCM\)](#), Student Affairs (Students)
  - c) [Employee and Labour Relations \(ELR\)](#), Human Resources Services (Faculty and Staff members)
  - d) [Faculty of Health Sciences \(FHS\) Professionalism Office](#) (FHS Community Members)
69. Intake Coordinators are responsible for ensuring the Complainant fully understands the procedures of the Policy and what may result from the decision to file a Complaint, and for consulting with the Director (SVPRO) to ensure a trauma-informed and intersectional approach.

70. The statement of Complaint will be reviewed by the respective Intake Office [Director](#), in consultation with the [Director \(HRDR\)](#), to determine the applicability of this Policy, the *Discrimination & Harassment Policy*, and/or other University policies.
71. The Director of the relevant Intake Office will review any Interim Measures on an ongoing basis throughout the process to ensure they remain necessary and appropriate in the circumstances.

## DIRECTOR, HUMAN RIGHTS & DISPUTE RESOLUTION

72. The [Director \(HRDR\)](#) is responsible for assessing every Complaint received and making a determination as to the applicability of the Sexual Violence Policy, the *Discrimination & Harassment Policy*, or other University policies, in consultation with the [Director \(SVPRO\)](#) and with the respective Director(s) of the relevant Intake Offices(s). The Director (HRDR) is responsible for activating the Response Team, as required.
73. The Director (HRDR) is responsible for working in close partnership with individuals and offices involved in administering this Policy, including but not limited to: the Response Team, Investigators, Intake Offices, Decision-Makers, Senior Administrators, the University Secretariat, and University Counsel, to ensure the effective administration of this Policy and the *Discrimination & Harassment Policy*.
74. The Director (HRDR) will, in collaboration with the Director (SVPRO) and other relevant Intake Office Directors, consider [Interim Measures](#) as they relate to the parties involved in the matter and recommend them to the relevant Decision-Maker; recommend and/or facilitate any further safety planning and accommodations; and consider other University responses that may be necessary.

## RESPONSE TEAM

75. The Response Team is activated by the [Director \(HRDR\)](#), where a case potentially presents community risk and/or requires consultation with multiple partners for a coordinated response.
76. The Response Team will be chaired by the Director (HRDR) and will include the Director (SVPRO), as a consultant, and, as appropriate in the circumstances, the Directors of other relevant campus partners.
77. As necessary the Director (HRDR) may draw upon representatives of other key services and/or departments (e.g. Director of Housing and Conference Services, Director of the Student Wellness Centre, etc.), disclosing identities only on a need-to-know basis in order to appropriately respond to the matter.
78. When the allegations include the potential for an ongoing/further risk of violence, the Director (HRDR) may, on behalf of the Response Team, consult with the Director of Security Services, disclosing identities on a need-to know basis.

## INVESTIGATORS

79. All Investigators, whether internal or external to the University, will have training and expertise in the area of Sexual Violence and in using an intersectional, anti-oppressive, trauma-informed approach to investigation processes. Investigators will follow the mandate and scope of the Investigation as determined by the University.



**DECISION-MAKERS FOR INTAKE AND INVESTIGATIONS**

80. The Decision-Makers are, as applicable, the:
  - a) Assistant Vice President & Chief Human Resources Officer for staff Respondents;
  - b) Associate Vice-President (Students and Learning) & Dean of Students for student Respondents;
  - c) Provost and Vice-President (Academic) for faculty Respondents; and
  - d) Executive Vice-Dean & Associate Vice-President (Academic) for faculty Respondents in the Faculty of Health Sciences.
81. More than one Decision-Maker may be involved in cases where a Respondent has more than one type of relationship with the University (such as a student who also holds a staff appointment).
82. When the Respondent is a Community Member but is not currently a student, staff, or faculty member, the Investigation report will be reviewed by the Decision-Maker related to the Respondent's area of activity at the University.
83. Decision-Makers are responsible for reviewing and responding to Investigation Reports (see [Investigation Procedures](#)), and authorizing appropriate Interim Measures.
84. When the line of authority is unclear, the Provost or the Vice-President (Operations and Finance), as appropriate, will determine the appropriate individual in the line of authority.
85. Should there be a conflict of interest with a Decision-Maker, the appropriate Vice-President shall assume the responsibilities of the Decision-Maker. Similarly, if that Vice-President is in a conflict then another Vice-President or the President shall act.
86. Decision-Makers are responsible for determining whether Hamilton Police Services need to be notified and for authorizing that notification, as specified in clauses 38 - 39.

**SECURITY SERVICES SPECIAL CONSTABLES**

87. All Special Constables will receive training on intersectional, anti-oppressive, and trauma-informed response to Disclosures and Reports of Sexual Violence.
88. [Security Services](#) will respond to Community Member Disclosures and Reports, as follows:
  - a) if the Community Member elects only to make a Disclosure or a Complaint under this Policy, Security Services will record the matter in their internal reports, refer the person to the [Director \(SVPRO\)](#) and will then take no further action (subject to clause 39);
  - b) if the Community Member elects to make a Criminal Report, Security Services will report the incident to Hamilton Police Services, liaise with the person and police, and refer the individual to the Director (SVPRO) for ongoing support, accommodations that may be required, and for assessing whether the limits of confidentiality apply and a response may be required by the University.
89. Security Services will investigate all reports of Sexual Assault that:
  - a) originate from a call received by a Special Constable to attend the scene of a reported Sexual Assault;

- b) result from a Complainant electing to make a Criminal Report of Sexual Assault to a Special Constable; and/or
- c) arise from a Special Constable observing, disrupting or arresting an individual in the act of committing a Sexual Assault.

## SUPERVISORS

90. Within the University Community it is recognized that there are various types of supervisors: [Academic Supervisors](#), [Academic Administrators](#), and [Workplace Supervisors](#). All such supervisors are responsible for:
- a) modeling acceptable standards of behavior;
  - b) supporting any employee or student who, in good faith, reports a potential violation of the Policy;
  - c) contacting one of the Intake Offices for guidance and advice to address the matter as appropriate in the circumstances, and cooperating with Intake Offices during Investigations, and/or in the implementation of Interim Measures, and/or sanctions; and
  - d) completing all required training and ensuring that the people they are supervising are trained appropriately on the Policy and [RMM 300 Health and Safety Training Program](#).

## EMPLOYEES

91. [Employees](#) are required to complete initial and periodic refresher training in Violence and Harassment Prevention, in accordance with the [Health & Safety Training Program](#).
92. Employees have additional legal obligations when they become aware of incidents of [Workplace Harassment](#) and [Workplace Violence](#) as follows:
- a) in accordance with the *Occupational Health and Safety Act*, all employees of the University must report any incident of Workplace Harassment and/or Workplace Violence, which includes Sexual Violence, to their Supervisor or to an Intake Office. Any immediate or urgent incidents should also be reported to [Security Services](#).
  - b) Workplace Supervisors must take every reasonable precaution to protect the safety of an employee. Supervisors are expected to follow the *Sexual Violence Response Protocol*, and to consult with either the [Director \(SVPRO\)](#) or [Employee and Labour Relations \(ELR\)](#) office when they receive a Disclosure, receive an incident report of Sexual Violence, or otherwise become aware of an incident of Sexual Violence in the workplace. Any immediate or urgent incidents should be reported to Security Services.

## COMMUNITY MEMBERS

93. All [Community Members](#) are responsible for contributing to an environment that is free of Sexual Violence, and for participating in relevant education and training programs.
94. All Community Members are expected to be familiar with the [Sexual Violence Response Protocol](#), and to act in accordance with the guidelines provided for supporting an individual who makes a Disclosure.

## SECTION VI: INVESTIGATIONS

### INTAKE AND INITIATION OF COMPLAINTS

95. If an individual wishes to file a [Complaint](#) of Sexual Violence for the University to address, they are encouraged to contact the [Director \(SVPRO\)](#) in the central **Sexual Violence Prevention and Response Office** for disclosure support, complaint intake, and reporting options; however, individuals may alternatively choose to file an Incident Report with their Supervisor or contact an Intake Coordinator in any one of the [Intake Offices](#) (refer to page 6).
96. Any Community Member who is the subject of an allegation under the Policy will be assisted by the Director (SVPRO) or another Intake Office Director who will ensure that they receive support and guidance and are in receipt of relevant information, services and supports relating to the Policy.
97. The Director (SVPRO) and all Intake Coordinators are responsible for:
  - a) ensuring that Complainants are aware of the options available to them in seeking a response;
  - b) assisting Complainants in understanding what may be involved in, and what may result from, each of the options; and
  - c) assisting a Complainant who wishes to move forward with completing a **Complaint Intake Form**, which includes a description of: what happened; who was involved in the incident; when and where the incident occurred; who (if anyone) saw or heard the incident, or saw or heard something of relevance prior to or after the alleged incident(s) of Sexual Violence;
  - d) individuals who contact an Intake Office and wish to file a Criminal Report will be assisted with contacting [Security Services](#) in order to file the report.
98. All Complaint Intake Forms are sent to the [Director \(HRDR\)](#), who will review and assess the Complaint, in consultation with the [Director \(SVPRO\)](#) and relevant Intake Office Director(s) on an immediate and priority basis in order to, as appropriate:
  - a) confirm that it fits within the scope of the Policy;
  - b) consider requirements pursuant to the *Occupational Health and Safety Act*;
  - c) consider whether the parties are interested in voluntary resolution, and whether it is feasible/appropriate in the circumstances;
  - d) determine if an Investigation is required, and, if so, set parameters accordingly, in consultation with the appropriate Decision-Maker (including, for example, which University office will be involved; internal or external investigator; timelines, mandate and scope for the Investigation);
  - e) convene, at their discretion, the [Response Team](#), to provide consultation;
  - f) consider and coordinate appropriate Accommodations and/or Interim Measures as they relate to all parties involved in the matter; and
  - g) as necessary, draw upon representatives of relevant services or departments in order to appropriately respond to the matter.
99. At any time during proceedings under this Policy, the Response Team, when convened, may determine it is necessary to disclose identities on a need-to know basis in order to administer the Policy.

**Decision to Not Investigate**

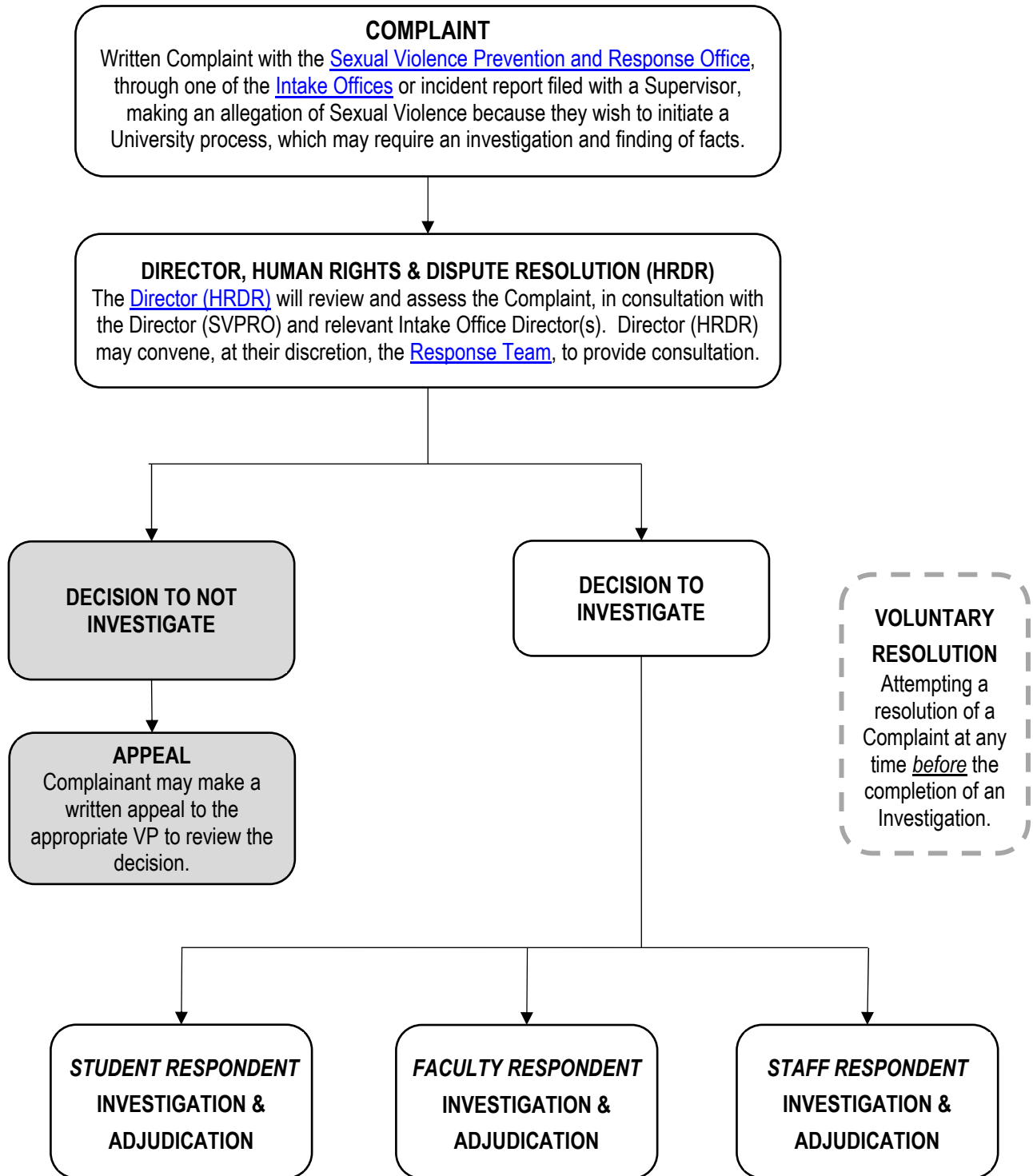
100. In some circumstances a decision may be made to not investigate. The decision will be communicated in writing, with reasons, to the Complainant by the relevant Decision-Maker. The Complainant will be informed of their right to make a written request for review of the decision to the Vice-President to whom the Decision-Maker reports.

**UNIVERSITY INITIATED INVESTIGATION**

101. The University may become aware of situations where a University-initiated Investigation may be warranted, including, but not limited to circumstances where:
- a) allegations are made about the conduct of a Community Member by an individual who is not, or is no longer, a Community Member;
  - b) one or more individuals disclose experiences of Sexual Violence involving one individual or multiple individuals within a group/organizational environment;
  - c) the University has a duty to investigate pursuant to the *Occupational Health and Safety Act*;
  - d) the power differential in the alleged incident indicates the potential for a pattern of repeated Sexual Violence; and/or
  - e) situations reveal broader issues to be addressed, including concerns for a Poisoned Environment.
102. The Director (HRDR), in collaboration with the appropriate Intake Office Director(s), will consult with the appropriate Decision-Maker(s) to determine whether an Investigation is warranted, on the basis of both the circumstances and nature of the allegations.
103. Individuals have the right not to participate as a Complainant in any University-Initiated Investigation that may occur.

**INVESTIGATION PROCEDURES**

104. Respondents have the right to know the case against them, and to produce any relevant documentation, evidence, or other information, and identify witnesses to the Investigator in response to any allegations.
105. The Investigator will impartially collect evidence and interview those witnesses they deem relevant in relation to the Complaint. The Investigator may request that the appropriate authority at the University adjust the scope and the manner in which the Investigation will be conducted in order to ensure a thorough and fair investigation process.
106. All Community Members are expected to meet with the Investigator if requested to do so and to participate in good faith.
107. Complainants and Respondents have the option of being accompanied by a Support Person or Advisor.
108. All those who meet with an Investigator are required to keep confidential the Investigation and any information shared, to ensure the integrity of the proceedings. Failure to do so could be considered a breach of privacy and could be subject to a sanction under the relevant University policy.
109. An individual who was not previously identified as a Respondent but who, during the course of an Investigation, is identified as a potential Respondent (by the Investigator and with the approval of the University) will be notified and given an opportunity to meet with the Investigator and to respond to any allegations.



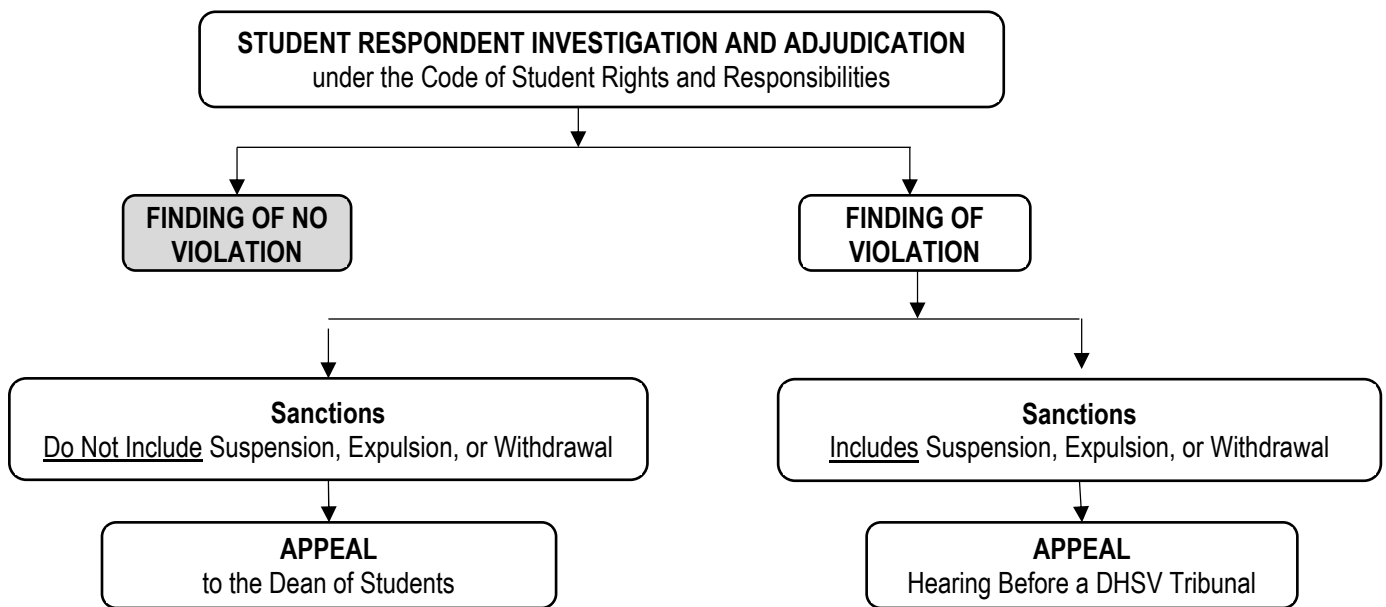
## SECTION VII: ADJUDICATION AND DECISIONS

### ADJUDICATION

- 110. Decision-Makers shall decide, on a balance of probabilities, whether the alleged Violation of the Policy has occurred.
- 111. Where a Respondent has more than one type of relationship with the University (such as a student who also holds a staff appointment) the relevant Decision-Makers may decide to adjudicate the matter jointly and any sanctions and remedies may be administered under one or both of the processes relevant to the Respondent’s status.

### STUDENT RESPONDENT

- 112. The Investigation Report will be provided to the [Director \(SCCM\)](#) or [Dean of Students](#) as appropriate, to consider and decide upon the findings and recommendations contained in the report and adjudicate the outcome.
- 113. Sanctions and remedies will be processed in accordance with the procedures in the [Code of Student Rights and Responsibilities](#) ("the Code").
- 114. In matters where the sanctions **do not include** suspension, expulsion, or withdrawal (voluntary or involuntary), the Respondent may appeal the outcome to the Dean of Students. When the Decision-Maker is the Dean of Students, the appeal will be to the Provost.
- 115. In matters where the sanctions **include** a suspension, expulsion, or withdrawal (voluntary or involuntary), the Respondent may appeal the decision made by the Dean of Students to the Board-Senate Hearing Panel for Discrimination, Harassment, and Sexual Violence. (see [Hearing Procedures](#)).

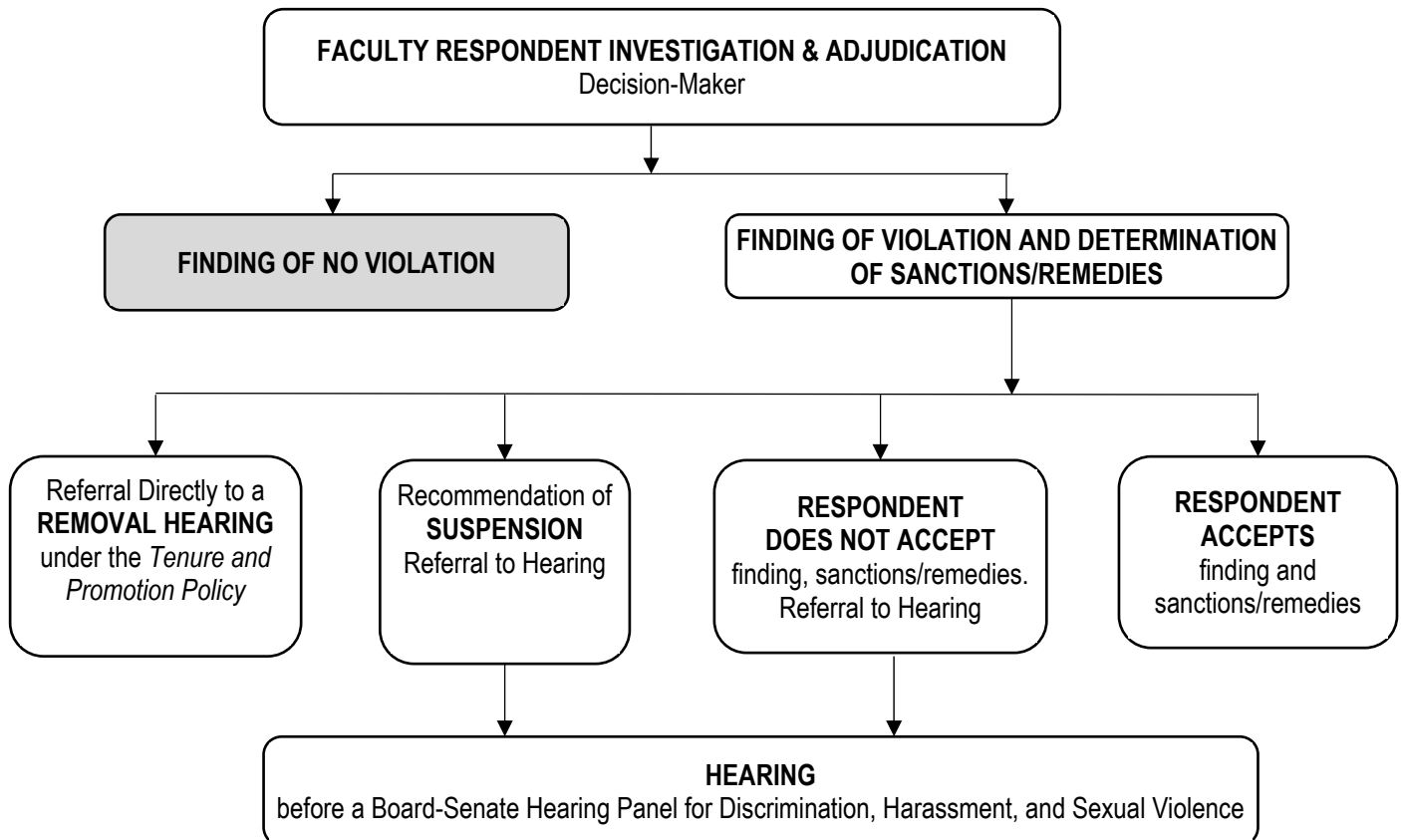


**FACULTY RESPONDENT**

- 116. The Investigation Report will be provided to the Decision-Maker (the Provost or the Executive Vice-Dean & Associate Vice-President (Academic) as appropriate) to consider the findings and recommendations contained in the report.
- 117. When considering the findings and recommendations, the Decision-Maker may consult with relevant offices (e.g. the Equity and Inclusion Office, Employee & Labour Relations, etc.) to ensure that outcomes are consistently applied, and are appropriate to relevant legislation, professional standards and regulations, and/or licensing bodies.
- 118. If the Decision-Maker makes a finding of violation of the Policy, the Decision-Maker will recommend the appropriate sanctions and/or remedies.
- 119. If the Respondent accepts the findings and the sanctions and/or remedies recommended by the Decision-Maker, the sanctions and/or remedies will be implemented, and the matter will be closed.

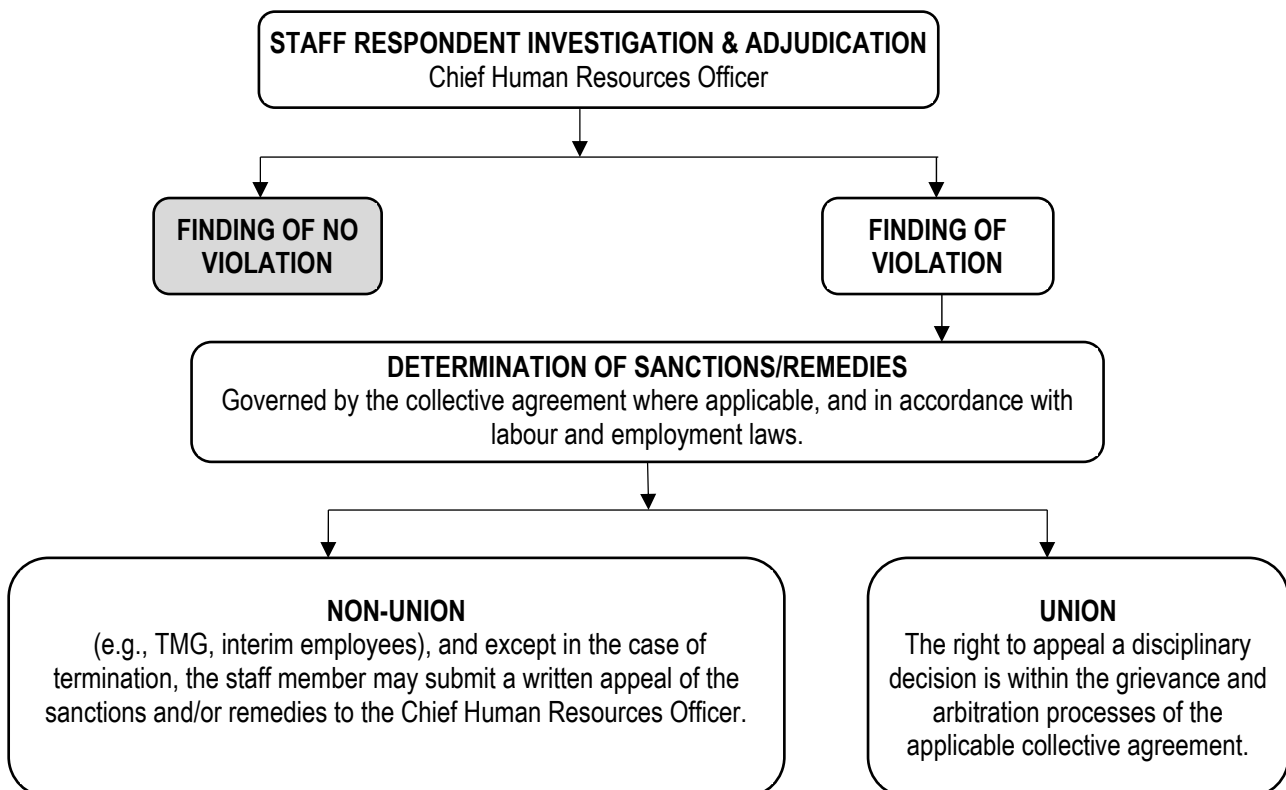
**Referral to Hearing**

- 120. If the Respondent does not accept the recommendations, **or** the Decision-Maker believes that suspension from the University is the appropriate sanction, the matter will be referred to a [DHSV Tribunal](#) for a hearing.
- 121. If it is determined by the Decision-Maker that Removal Proceedings should be initiated, the matter will be referred directly to the Procedures for Removal under the [Tenure and Promotion Policy](#).



**STAFF RESPONDENT**

- 122. The Investigation Report will be provided to the Chief Human Resources Officer to consider the findings and recommendations contained in the report.
- 123. If the Chief Human Resources Officer makes a finding of violation of the Policy, the matter will be referred to the [Director \(ELR\)](#) to support the [Workplace Supervisor](#) in the processes to determine appropriate remedies and/or sanctions to ensure that outcomes are consistently applied, and are appropriate to relevant legislation, professional standards and regulations, collective agreements and/or licensing bodies.
- 124. In the case of a staff member who is a member of a union, the right to appeal the remedies and/or sanctions is within the grievance and arbitration processes of the collective agreement, as may be applicable.
- 125. In the case of a staff member who is not a member of a union (e.g., members of The Management Group, interim employees), and except in the case of termination, the staff member may submit a written appeal of the remedies and/or sanctions imposed by the Workplace Supervisor to the Chief Human Resources Officer.
- 126. In the case where the Respondent’s reporting line is through to the Chief Human Resources Officer, the appeal will be made to the Vice-President (Operations and Finance).





### **COMMUNITY MEMBER RESPONDENT**

127. When the Respondent is a [Community Member](#) but is **not** currently a student, staff, or faculty member, the relevant [Decision-Maker](#) (related to the Respondent's area of activity at the University) will consider the findings and recommendations contained in the report.
128. If the Decision-Maker makes a finding of violation of the Policy, the Decision-Maker will decide on the appropriate sanctions/remedies.

### **NOTIFICATION OF OUTCOME**

#### **Respondent**

129. Respondents will receive a written decision from the relevant Decision-Maker, that will include:
- a) the decision with respect to a **Finding** or **No Finding** of Violation of the Policy;
  - b) reasons for the decision;
  - c) a summary outlining the findings;
  - d) if the outcome is *no finding of violation* of the Policy the matter will be closed;
  - e) if the outcome is a *finding of violation* of the Policy, the Respondent will be informed of the process by which sanction(s) and/or remedies will be recommended or ordered (as per the relevant adjudication process related to the Respondent); and
  - f) where relevant, confirmation of any Interim Measures that will remain in place until sanctions are imposed.

#### **Complainant**

130. If the matter has been referred to a Hearing the Complainant will be informed of the referral.
131. Within the constraints of relevant legislation, the Complainant will be informed of the findings and reasons that are directly related to their complaint.
132. In all cases, information about any sanctions/remedies that have direct relevance to the Complainant will be provided to them.

#### **Regulatory / Professional Licensing Bodies**

133. Where required by a regulatory / professional licensing body, the relevant findings will be communicated to that professional licensing body.

#### **Affected parties**

134. Other affected parties will be informed about the findings and/or any sanctions/remedies that have a direct impact on them, within the constraints of relevant legislation.

### **SYSTEMIC AND PREVENTIVE INTERVENTIONS**

135. Investigations may reveal broader systemic issues to be addressed as a future preventative measure, regardless of whether or not there has been a finding of Sexual Violence. In such instances, appropriate intervention measures may be recommended by Decision-Makers and /or the AVP Equity and Inclusion.

## SECTION VIII: SANCTIONS AND REMEDIES

### SANCTIONS

136. Sanctions shall be proportional to the severity of the offence, considering any aggravating, mitigating and/or contextual factors. Previous findings of a violation of this Policy or a related violation of the *Discrimination & Harassment Policy* will be taken into account when sanctions are determined, and the severity of sanctions may be greater as a result. Sanctions may be used independently or in combination for any single violation and may be varied and depending on the nature of the Respondent's relationship with the University may be administered under more than one process.
137. **Sanctions** may include, but are not limited to:
- a) written reprimand;
  - b) inclusion of the decision, or summary of the decision as appropriate to comply with confidentiality requirements, in a specified file (e.g. Tenure & Promotion Dossier) of the Respondent, for a specified period of time;
  - c) the exclusion of the Respondent from, or oversight during, one or more designated University activities or duties;
  - d) a **No Contact Order**, which may include restrictions on: registration for specific classes, other academic/non-academic activities, attendance at specific meetings or events; direct or indirect contact (including but not limited to in person, by phone, email, text, social media, through a third party etc.) with a specific individual or group of individuals;
  - e) a **Persona Non Grata (PNG)** declaration, which is undertaken when an individual is denied the privilege of entering designated portion(s) of the University's buildings or grounds. If individuals issued a PNG are found or seen in the area they are denied, they may be subject to a charge by Security Services under the *Trespass to Property Act*;
  - f) for Student Respondents, all sanctions in the [Code of Student Rights and Responsibilities](#) for findings of Sexual Violence, including but are not limited to: behavioural contract/bond, suspension, expulsion; and for Residence students, residence probation, room transfer, denial of readmission, eviction;
  - g) for staff or faculty, **Suspension or Recommendation for Suspension**, as applicable, suspension involves relieving the Respondent of their University duties and denying them access to University facilities and services for a stated period of time and may be with or without pay and/or benefits. A recommendation for suspension of a **faculty** Respondent shall be dealt with in accordance with Section V of the [Tenure and Promotion Policy](#) and the common law where applicable; and/or
  - h) for staff or faculty, **Dismissal or Recommendation for Removal**, as applicable. A recommendation for removal of a **faculty** Respondent shall be dealt with in accordance with Section VI of the [Tenure and Promotion Policy](#) and the common law where applicable.

### REMEDIES

138. **Remedies** may include but are not limited to:
- a) mandated counselling;
  - b) training or coaching; and/or
  - c) [Restoration Processes](#) / [Workplace Restoration Processes](#).

## APPENDIX A: DEFINITIONS

All definitions in this Policy include, but are not limited to, the definitions articulated in the [Ontario Human Rights Code](#) and described in the [Occupational Health and Safety Act](#).

**Accommodations** under this Policy are adjustments to individuals' academic, workplace, or residence arrangements made to support them and/ or enhance their safety (e.g. a change in assignment deadlines or tutorial group, a change in supervisory arrangements, a change in residence location).

**Advisor:** A person of the individual's choice who acts in an advisory role during the complaint and investigation process (e.g. friend, family member, union representative, legal counsel), but is not a witness or potential witness in the matter. The Advisor may be present during Investigation interviews but may not participate as a representative. The Advisor may assist the individual at a Hearing before a Tribunal of the Board-Senate Hearing Panel for Discrimination, Harassment, and Sexual Violence.

**Agent:** Anyone hired by the University or working on behalf of the University such as an external investigator or a physician or other health care professional.

**Balance of Probabilities** is the test to be met to show, by the weight of the evidence presented, that all of the facts necessary to make a determination that a violation of the Policy has occurred, have a greater likelihood of being true than not.

**Community Members** include, but are not limited to: students (graduate, undergraduate, and continuing education), staff, faculty, medical residents, volunteers, visitors (including visiting professors), and institutional administrators and officials representing McMaster University.

**Complainant:** The individual who files a Complaint alleging a violation of the Policy for the University's response.

**Complaint:** A Complaint is made when an individual notifies an Intake Coordinator of an allegation under the Policy or files an incident report with their Supervisor and seeks the University's response.

**Confidentiality:** Refers to the obligation of an individual or organization to safeguard entrusted information. The practice of confidentiality includes obligations to protect information from unauthorized access, use, disclosure, modification, loss or theft. Confidentiality differs from anonymity in that the identity of the person making the Disclosure is known to the person receiving the Disclosure.

**Consent<sup>2</sup>** in the context of sexual activity, is the voluntary agreement of an individual to engage in the sexual activity in question. **The law also says that there is NO CONSENT where:**

- the agreement is expressed by the words or conduct of a person *other* than the individual;
- the individual is incapable of consenting to the activity;
- the person induces the individual to engage in the activity by abusing a position of trust, power or authority;
- the individual expresses, by words or conduct, a lack of agreement to engage in the activity;
- the individual, having consented to engage in sexual activity, expresses, by words or conduct, a lack of agreement to continue to engage in the activity;
- the individual may be bodily harmed or is threatened with bodily harm; or

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<sup>2</sup> Source: Criminal Code of Canada

- the individual is under the age of consent.

**Criminal Report:** Occurs when a person reports an experience of Sexual Violence to the police or to McMaster Security Services. Filing a report with Security Services will result in a report to Hamilton Police Service.

**Disclosure:** When an individual informs someone in the University community about an experience of Sexual Violence because they wish to access support, accommodations and/or information about their options.

**Dismissal:** Dismissal/termination proceedings for staff Respondents shall be dealt with in accordance with the established policies and procedures and by the terms of existing contracts of employment or collective agreements and the common law where applicable.

**DHSV Tribunal:** A Tribunal of the Board-Senate Hearing Panel for Discrimination, Harassment, and Sexual Violence.

**Employee:** Where applicable, employee is used to refer to staff (see below) and faculty (see below).

**Event (Authorized):** Authorized events are University scheduled or University approved activities, occurring on or off University premises, e.g. public lectures, performances, placements (co-op or clinical), athletic events, work or study-related conferences/training sessions, etc. These events can include work or study-related travel. Events that are approved under the [Policy on Students Groups \(Recognition, Risk Assessment and Event Planning\)](#) are also authorized events.

**Event (Non-authorized):** Non-authorized events are events that are not scheduled or approved by the University and may occur on or off University premises e.g. group trips that have not been approved under the [Policy on Students Groups \(Recognition, Risk Assessment and Event Planning\)](#), drinking games in residence, house parties, etc.

**Expulsion** applies to student Respondents and is the loss of all academic privileges at the University for an indefinite period.

**Faculty** are defined as academic teaching staff, clinical faculty, and senior academic librarians who are members of the “teaching staff”. Teaching staff as defined in the McMaster University Act means the employees of the University or of a college affiliated with the University who hold the academic rank of professor, associate professor, assistant professor or lecturer.

**Incident Report:** An [incident report](#) is a report completed by a Community Member and signed by their Supervisor when an incident/injury occurs in their working environment while they are engaged in University-related activities.

**Interim Measures:** Steps that are taken in order to safeguard the environments of individuals disclosing Sexual Violence and of individuals whose conduct is being questioned. Interim measures shall not be construed as evidence of either guilt or a finding of Sexual Violence, or as an affirmation of innocence or finding that no Sexual Violence occurred.

**No Contact Order:** Includes restrictions on: registration for specific classes, other academic or non-academic activities, or attendance at specific meetings or events; direct or indirect contact (including but not limited to in person, by phone, email, text, social media, through a third party etc.) with a specific individual or group of individuals.

**Persona Non Grata (PNG):** An official declaration that an individual is denied the privilege of entering designated portion(s) of the University's buildings or grounds. If individuals issued a PNG are found or seen in the area they are denied, they will be subject to a charge by Security Services under the *Trespass to Property Act*.

**Poisoned Environment** means an environment where harassing and/or discriminatory conduct, on the basis of a person's sexuality, gender identity or gender expression, is found to be sufficiently severe, intimidating, hostile, offensive, and/or pervasive to cause significant and unreasonable interference to a person's study or work environment. A Poisoned Environment can interfere with and/or undermine work or academic performance and can cause emotional and psychological stress for some employees or students not experienced by other employees or students. As such, it results in unequal terms and conditions of employment or study and prevents or impairs full and equal enjoyment of employment or educational services, benefits, or opportunities. Although a person may not be the target of the conduct, a person may feel the effects of certain harassing or discriminatory conduct at their place of work or study.

**Recommendation for Removal:** A recommendation for removal of a faculty Respondent will be dealt with in accordance with Section VI of the Tenure and Promotion Policy and the common law where applicable.

**Respondent:** Those about whom allegations have been made in a Complaint process.

**Restoration Processes:** Processes focusing on restoring the losses suffered by Complainants, holding Respondents accountable for the harm they have caused, and building peace within communities. Restoration Processes are premised on the voluntary and cooperative participation of all parties in the resolution process. This process, which may not be appropriate or viable in all cases, can be facilitated by an Intake Office.

**Senior Administration:** For the purposes of this Policy, Senior Administration refers to the President, Provost and Vice-President (Academic), and Vice-President (Operations and Finance).

**Sexual Assault**<sup>3</sup> is an assault committed in circumstances of a sexual nature such that the sexual integrity of an individual is violated, and it includes, but is not limited to, any unwanted, non-consensual, sexual activity, such as unwanted kissing, fondling, sexual grabbing, and/or intercourse/rape.

**Sexual Harassment**<sup>4</sup> means engaging in a course of vexatious comment or conduct against an individual because of sex, sexual orientation, gender identity or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome, or making a sexual solicitation or advance to an individual where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement to the individual and the person knows or ought reasonably to know that the solicitation or advance is unwelcome.

**Sexual Violence**<sup>5</sup> 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.

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<sup>3</sup> Source: Criminal Code of Canada

<sup>4</sup> Source: Government of Ontario, [Human Rights Code](#), 2019

<sup>5</sup> Source: [Ministry of Training, Colleges and Universities Act, R.S.O. 1990, c. M.19](#)

**Staff:** Employees of the University including, but not limited to: The Management Group (TMG), unionized employees, temporary employees, casual employees, non-teaching staff<sup>6</sup>, Sessional Faculty, Post-doctoral Fellows, and Teaching Assistants.

**Student:** A student is any individual recorded by the University Registrar as enrolled in an educational course of study recognised by the Senate and for whom the University maintains education records.

**Supervisor:** there are various types of supervisors within the University Community, which include the following:

- **Academic Supervisor** who oversees the academic work of a student, the most common example being a faculty member overseeing a graduate student's academic work;
- **Academic Administrator** is any faculty or staff member acting in their capacity as supervisor/administrator within a Faculty, Academic Department, etc., which includes, but is not limited to, Department Chairs, Deans, or other supervisors who oversee the work of a [Community Member](#) (e.g. a faculty member overseeing a Post-Doctoral fellow / technician / undergraduate or graduate student performing research in the faculty member's laboratory).
- **Workplace Supervisor** is "a person who has charge of a workplace or authority over a [Worker](#)" (*Occupational Health and Safety Act*). Supervisors are responsible for knowing the *Duties of Supervisors* under the Act.

**Support:** The provision of resources appropriate to the individual and the circumstances. This may include access to the Student Wellness Centre, Employee Family Assistance Program, and/or McMaster Students Union (MSU). Support resources do not include the provision of legal counsel.

**Support Person:** A person of the individual's choice who acts in a supportive role but is not an active participant in the process (e.g. friend, Elder, parent, religious advisor). The Support Person may be present during Investigation interviews but may not participate as a representative.

**Suspension** involves relieving a faculty or staff Respondent of their University duties and denying them access to University facilities and services for a stated period of time, which may be with or without pay and/or benefits. A recommendation for suspension of a faculty member will be dealt with in accordance with Section V of the Tenure and Promotion policy and the common law where applicable. Suspensions of staff members will be dealt with in accordance with established policies and procedures and by the terms of existing contracts of employment or collective agreements and the common law where applicable. For a student Respondent, suspension is the loss of all academic privileges at the University for a specified period of time and/or until imposed conditions are met. The student is eligible to return after this time but may be required to fulfill specified non-academic conditions upon return.

**Tenure and Promotion Policy:** The McMaster University Revised Policy and Regulations with Respect to Academic Appointment, Tenure and Promotion.

**Voluntary Resolution:** Steps taken (e.g. arrangement of academic, work or living environment / conditions) to resolve or remedy a Complaint, with which both the Complainant and Respondent have agreed.

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<sup>6</sup> "non-teaching staff" means the employees of the University and of a college affiliated with the University who are not members of the teaching staff –The McMaster University Act, 1976

**Workplace Harassment**<sup>7</sup> means engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome; or workplace sexual harassment.

**Workplace Restoration** is the establishment or re-establishment of harmonious working relationships between individuals and within a team, group or unit.

**Workplace Sexual Harassment**<sup>8</sup> means engaging in a course of vexatious comment or conduct against a worker in a workplace because of sex, sexual orientation, gender identity or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome; or making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement to the worker and the person knows or ought reasonably to know that the solicitation or advance is unwelcome.

**Workplace Violence**<sup>9</sup> means: the exercise of physical force by a person against a worker, in a workplace, that causes or could cause physical injury to the worker; an attempt to exercise physical force against a worker, in a workplace, that could cause physical injury to the worker; a statement or behaviour that it is reasonable for a worker to interpret as a threat to exercise physical force against the worker, in a workplace, that could cause physical injury to the worker.

**Worker:** a person who performs work or supplies services for monetary compensation; and a person who performs work or supplies services for no monetary compensation under a program approved by a college of applied arts and technology, university or other post-secondary institution. Unpaid students, learners and trainees who are workers under the Occupational Health and Safety Act have the same duties and rights as paid workers. Placement employers have the same duties to protect the health and safety of unpaid students, learners or trainees who are workers under the Occupational Health and Safety Act as they do to protect their paid workers. The definition of “worker” does not include a volunteer who works for no monetary payment of any kind.

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<sup>7</sup> Occupational Health and Safety Act

<sup>8</sup> Government of Canada [Restoring The Workplace Following A Harassment Complaint: A Manager's Guide](#)

<sup>9</sup> Occupational Health and Safety Act



## APPENDIX B: RESOURCES

The [Sexual Violence Response Protocol](#) is an information resource for all Community Members making or receiving Disclosures of Sexual Violence. Additional resources include, but are not limited to:

### **Support for the University Community**

- Sexual Violence Prevention and Response Office, Equity and Inclusion Office
- Human Rights & Dispute Resolution Program, [Equity and Inclusion Office](#)
- [Faculty of Health Sciences Professionalism Office](#)
- [Security Services](#)
- [Chaplaincy Centre](#)

### **Additional Support for Students**

- [Student Wellness Centre](#) (personal counselling and medical services)
- [Student Support & Case Management](#) (support and guidance about the Code of Student Rights and Responsibilities)
- [Indigenous Student Services](#) (community support and resources for Indigenous students)
- [Women and Gender Equity Network, McMaster Student Union](#) (peer support and resources)
- [Graduate Students Association Health & Dental Plans](#) (health benefits include access to psychological counselling in the community)

### **Additional Support for Staff and Faculty**

- [Union or Association](#)
- [Employee & Labour Relations](#)
- [Employee Health Services](#)
- [Employee and Family Assistance Program](#) (access to professional counsellors, legal guidance and other supportive services available to staff and faculty)

### **Support in the Broader Community**

- [Good2Talk](#) (24/7 phone support for students offered by professional counsellors)
- [Sexual Assault Centre Hamilton & Area](#) (SACHA) (24/7 phone support, counselling, accompaniment)
- [Sexual Assault/Domestic Violence Care Centre](#)
- [Hamilton Police Services – Victim Services Branch](#)
- [John Howard Society](#) or [Elizabeth Fry Society](#) (for individuals in conflict with the law)

### **Guidance about a Policy and/or Procedures**

- [Equity and Inclusion Office](#)
- [Employee & Labour Relations](#)
- [Student Support & Case Management](#)
- [University Secretariat](#)

### **Independent Resource**

- [Ombuds Office](#) provides an independent, impartial, and confidential process through which students may pursue a just, fair and equitable resolution of a University related concern.



## APPENDIX C: JURISDICTION

1. Complaints may be made, or Investigations initiated about any alleged violation of this Policy involving any Community Member, including members of recognized groups, teams and clubs. The Policy may extend to incidents that occur off campus where there is a clear nexus to the working and/or learning environment at the University and recognizes that social media conduct may give rise to a violation of the Policy.
2. Nothing in this Policy is meant to supersede the terms and conditions of any collective agreement, or any other contractual agreement, entered into by the University and its employee groups. In the event that the provisions of this Policy contradict any such collective or contractual agreement, the collective or contractual agreement governs, to the extent of the contradiction.
3. To the extent that this Policy affects the terms and conditions of employment of faculty of the University, it may be subject to discussion and/or approval in accordance with the University policy entitled, *The Joint Administration/Faculty Association Committee to Consider University Financial Matters and to Discuss and Negotiate Matters Related to Terms and Conditions of Employment of Faculty*, revised by the Board of Governors on October 20, 1988 (the 'Joint Administration/Faculty Association' policy).
4. Should a Complainant, with respect to the subject matter of a Complaint dealt with under this Policy and/or the [Discrimination & Harassment Policy](#), seek redress under the [Ontario Human Rights Code](#), the [Criminal Code](#), the [Occupational Health and Safety Act](#), the provisions of an applicable collective agreement, or through civil litigation, or any other forum external to the University, the appropriate Decision-Maker, in consultation with the [Director \(HRDR\)](#), and/or relevant Intake Office Director, will determine whether proceedings under this Policy will be initiated.
5. If proceedings under this Policy and/or the [Discrimination & Harassment Policy](#) have already been initiated, the appropriate Decision-Maker, in consultation with the Director (HRDR), and/or relevant Intake Office Director, will determine in the circumstances whether or not the proceedings under this Policy will:
  - a) be permanently discontinued;
  - b) be disallowed; or
  - c) be suspended until proceedings in the external or other forum are concluded, although Interim Measures may be put in place to safeguard the environments of the parties involved.
6. If a jurisdictional issue arises between the University and an affiliate, off-site entity or other third party, a senior officer of the affiliate/third party, and the University Provost or Dean and Vice-President (Health Sciences) or relevant Decision-Maker in conjunction with the University Vice-President (Operations and Finance), will attempt a resolution, which may include a joint Investigation or an agreement to share the findings and/or other relevant outcomes with the other party. In the absence of any agreement to the contrary, the University will proceed with the Investigation according to University policy and procedures.
7. This Policy is not intended to supersede or interfere with the criminal justice system; all persons have the right to pursue legal avenues.
8. Respondents in a Complaint procedure must be Community Members. If a person alleged to have engaged in Sexual Violence is not currently a Community Member, the University has no jurisdiction to pursue or adjudicate the incident. However, the University reserves the right to take whatever steps it considers appropriate to safeguard the University Community.
9. As part of the University's commitment to a Discrimination and Harassment free working, studying and living environment, all external agencies, third-party service providers, and independent contractors who do business on the University and are considered agents of the University will be informed of the existence of this Policy and of the University's expectation that these external entities shall govern themselves accordingly while doing business with the University. Information to this effect will be included in all contracts.

## APPENDIX D: RELATED POLICIES AND LEGISLATION

This Policy is to be read in conjunction with the following policies, statements, and collective agreements. Any question of the application of this Policy or related policies shall be determined by the Provost and Vice President (Academic) or the Vice President (Administration) as appropriate, and in conjunction with the administrator of the other policy or policies. The University reserves the right to amend or add to the University's policies and statements from time to time (this is not a comprehensive list):

- [Academic Accommodation of Students with Disabilities](#)
- [Academic Freedom, Statement \(SPS E1\)](#)
- [Accessibility – University Policy on](#)
- [Code of Conduct for Faculty and Procedures for Taking Disciplinary Action](#)
- [Code of Student Rights and Responsibilities](#)
- [Complaint Resolution Procedure for TMG](#)
- [Conflict of Interest Guidelines- Undergraduate Studies and Graduate Studies](#)
- [Discrimination & Harassment Policy](#)
- [Employee & Labour Relations – Collective Agreements](#)
- [Faculty Grievance Policy](#)
- [Freedom of Information and Protection of Privacy Act](#)
- [Hearing Procedures for the Board-Senate Hearing Panel for Discrimination, Harassment and Sexual Violence](#)
- [Ministry of Training, Colleges and Universities Act](#)
- [Ontario Human Rights Code](#)
- [Occupational Health and Safety Act](#)
- [Personal Health Information Protection Act](#)
- [Professional Behavior Code for Graduate Learners, Health Sciences](#)
- [Professional Behavior Code for Undergraduate Learners, Health Sciences](#)
- [Senate Resolutions re Group Conflict](#)
- [Senate Mediation Procedures](#)
- [Sexual Violence Response Protocol](#)
- [Statement on Building an Inclusive Community with a Shared Purpose](#)
- [Inclusive Communications, Policy Statement and Guidelines on](#)
- [Students Groups \(Recognition, Risk Assessment and Event Planning\), Policy on](#)
- [Tenure and Promotion Policy \(McMaster University Revised Policy and Regulations with Respect to Academic appointment, Tenure and Promotion\)](#)
- [Trespass to Property Act](#)
- [Violence in the Workplace, Policy on](#)
- [Workplace Accommodation, Policy on](#)
- [Workplace & Environmental Health and Safety Policy](#)