

<b>Harassment, Violence, and Sexual Violence Policy</b>			
<b>Policy Sponsor</b>	Chief Human Resource Officer	<b>Category</b>	Administrative
<b>Policy Contact</b>	Deputy Chief Human Resource Officer	<b>Effective Date</b>	May 8, 2019
<b>Approved By</b>	Executive Team	<b>Review Date</b>	May 8, 2024
<b>Approved Date</b>	May 8, 2019		

### 1. Purpose

Athabasca University is committed to creating a respectful, safe, and healthy environment for Members to work and learn. This policy outlines the principles which guide the collective responsibility of Members to ensure this is achieved. The University facilitates this commitment through education, promoting awareness, ensuring legislative compliance and committing to prompt action in matters of Harassment, Violence or Sexual Violence.

### 2. Scope

This policy applies to all Members of the University Community and to locations, physical or virtual, where University activities or relations are conducted or which bear a nexus to the University, including but not limited to:

- University work or learning locations
- Conferences
- Client locations
- Social functions or situations related to University work or academia

This policy complements, may interact with or may trigger, other University policies, procedures, collective agreements, contracts, terms of reference, professional codes of conduct or legislation and shall be read in a manner which operates in conjunction with, and not as conflicting with, those instruments.

In the event of a conflict between this policy and any policy, procedure, practice or legislation, the most restrictive policy, procedure, practice or legislation will apply. However, where this policy or its procedures provide for a standard or procedure that conflicts with a collective agreement, the collective agreement will prevail to the extent necessary to resolve the conflict.

This policy does not apply to or seek to limit any authorized academic or research projects or purposes that may include topics of Harassment, Violence, or Sexual Violence.

### 3. Definitions

<b>Academic Freedom</b>	As defined in the Athabasca University Faculty Association (AUFA) and The Governors of Athabasca University (the Board) Terms and Conditions of Agreement, as negotiated from time to time.
<b>Chief Human Resource Officer</b>	The person or persons occupying the position of Chief Human Resource Officer and any designate of the Chief Human Resource Officer.
<b>Complainant</b>	A Member of the University Community who believes they have been a victim of, witness to, or become aware of Harassment, Violence, or Sexual Violence, and who has made a Disclosure, Complaint, or taken action towards an informal or formal resolution.
<b>Complaint</b>	Formal, written allegation of Harassment, Violence, or Sexual Violence made under either the: <ul style="list-style-type: none"> <li>• <b>Addressing Harassment and Violence Procedure</b>, or</li> <li>• <b>Addressing Sexual Violence Procedure</b>,</li> </ul> by a Member of the University Community.
<b>Disclosure</b>	The act of telling another individual about an incident of Harassment, Violence, or Sexual Violence to seek support, counselling or other services, or to obtain information about formal reporting options.
<b>FOIP Act</b>	<i>Freedom of Information and Protection of Privacy Act</i> , R.S.A. 2000, c. F-25, as amended from time to time.
<b>Interim Measures</b>	Non-disciplinary conditions that may be imposed on a temporary basis to create or ensure a safe, healthy and respectful working or learning environment. Interim Measures may be made in response to a Disclosure, informal efforts to resolve an incident, upon receipt of a Complaint, or before, during or after an investigation or mediation.  Interim Measures may be imposed where, for example: <ul style="list-style-type: none"> <li>i. the alleged conduct would be a significant violation of this policy;</li> </ul>

	<ul style="list-style-type: none"> <li>ii. where the alleged conduct would create an ongoing risk to an individual, the University Community or the reputation of the University; or</li> <li>iii. where necessary to ensure the integrity of an investigation is not jeopardized.</li> </ul> <p>Interim Measures may be imposed to ensure personal safety, prevent retaliation or reprisal, protect confidentiality, minimize disruptions to the learning or working environment, or to preserve the University's ability to respond under this policy and its procedures.</p>
<b>Harassment</b>	<p>Any single incident or repeated incidents of objectionable or unwelcome conduct, comment, bullying or action by a person that the person knows, or ought reasonably to know, will or would cause offence or humiliation to another person or adversely affects another person's physical or psychological well-being.</p> <p>Harassment does not include the reasonable conduct or actions of the University in respect of the management of its Members.</p> <p>Harassment made on the basis of, or in relation to, a person's sexuality is Sexual Harassment.</p>
<b>Member</b>	<p>Member of the University Community.</p>
<b>Reporting Officer</b>	<p>The person responsible for the receipt of Complaints of Harassment, Violence or Sexual Violence. The Reporting Officer is:</p> <ul style="list-style-type: none"> <li>i. for students, the Provost &amp; Vice President Academic (or their designate);</li> <li>ii. for all others, the Chief Human Resource Officer (or their designate); and</li> <li>iii. if the subject of a Complaint is the usual Reporting Officer, the University Secretary.</li> </ul> <p>In the event that the relevant Reporting Officer or their designate is unavailable, a Complainant can contact:</p> <ul style="list-style-type: none"> <li>i. for students, the Deputy Provost Academic Operations; and</li> </ul>

	ii. for all others, the Deputy Chief Human Resources Officer.
<b>Respondent</b>	A Member who has been alleged to have engaged in Harassment, Violence, or Sexual Violence.
<b>Sexual Harassment</b>	<p>Any single incident or repeated incidents of objectionable or unwelcome conduct, comment, bullying or action by a person that the person knows, or ought reasonably to know, will or would cause offence or humiliation to another person or adversely affects another person's physical or psychological well-being made on the basis of, or in relation to, a person's sexuality.</p> <p>Sexual Harassment is considered a form of Sexual Violence.</p>
<b>Sexual Violence</b>	<p>A single incident or repeated incidents of violence, whether physical or psychological, that is threatened, attempted or committed against a person without the person's consent through sexual means, coercion, or by targeting the person's sexuality. Sexual Violence includes, but is not limited to:</p> <ul style="list-style-type: none"> <li>• sexual assault;</li> <li>• Sexual Harassment;</li> <li>• indecent exposure;</li> <li>• voyeurism;</li> <li>• degrading sexual imagery; and</li> <li>• distribution of sexual images or video of a Member without their Consent.</li> </ul>
<b>Support Resources</b>	<p>Confidential and objective resources that may be utilized for support by a Member affected by Harassment, Violence or Sexual Violence. Support Resources may include:</p> <p>Generally:</p> <ul style="list-style-type: none"> <li>• Alberta Health Services</li> <li>• Alberta Association of Sexual Assault Services</li> <li>• Friends, family, trusted colleagues, legal counsel</li> </ul> <p>Student-specific:</p> <ul style="list-style-type: none"> <li>• Counselling Services</li> <li>• Student Wellness Program (Homewood Health)</li> </ul> <p>Employee-specific:</p> <ul style="list-style-type: none"> <li>• Employee Family Assistance Program</li> <li>• A supervisor</li> <li>• A union representative</li> <li>• Human resources department</li> </ul>

<b>University</b>	Athabasca University
<b>University Community</b>	All faculty and staff, students, Board Members, contractors, postdoctoral fellows, volunteers, visitors and other individuals who work, study, conduct research or otherwise carry on business of the University.
<b>Violence</b>	<p>The threatened, attempted or actual conduct of a person that causes or is likely to cause physical or psychological injury or harm.</p> <p>Examples of Violence may include:</p> <ul style="list-style-type: none"> <li>• Physical attack (hitting, shoving, pushing);</li> <li>• Aggression (throwing an object, kicking an object the worker is standing on);</li> <li>• Threatening behavior (shaking of one's fist, wielding a weapon, destroying property or throwing objects);</li> </ul> <p>Verbal or written threats (threatening to induce harm on another through verbal communication, written notes or digital communication.</p>

#### 4. Guiding Principles

4.1. The University and its Members share in the responsibility of creating and fostering a safe, healthy, and respectful working and learning environment.

4.2. The University's responsibilities include:

- a) providing Members with Harassment, Violence, and Sexual Violence education and awareness, including defining Member responsibilities, promoting the development of respectful relationships and communication and establishing and implementing procedures by which incidents can be reported, investigated, and responded to;
- b) ensuring its employees and supervisors are trained to recognize Harassment, Violence, and Sexual Violence, and know where they can ask questions pertaining to this policy or its procedures;
- c) ensuring its Reporting Officers are trained in investigating and responding in matters of and relating to Harassment, Violence or Sexual Violence;
- d) informing persons affected by Harassment, Violence or Sexual Violence about available Support Resources;
- e) investigating incidents where necessary;

- f) ensuring that Complainants, Respondents, and others involved in any Disclosure, Complaint, investigation, mediation or related matter:
  - i. understand the University's confidentiality obligations and the limitations of those obligations;
  - ii. have their confidentiality protected to the extent possible, subject to the terms of this policy and relevant legislation; and
  - iii. are informed they are also obliged to maintain the confidentiality of other persons involved and that a failure to do so may be a disciplinable event;
- g) eliminating or controlling to the extent practicable the hazards of Harassment, Violence and Sexual Violence;
- h) ensuring that contractors and other non-student or non-employee Members contributing to the University activities or acting on behalf of the University are aware of their rights and responsibilities under this policy;
- i) promoting awareness and reducing the stigma associated with filing a complaint or making a disclosure relating to Harassment, Violence or Sexual Violence; and
- j) cooperating with legal authorities.

#### 4.3. Members' responsibilities include:

- a) understanding the meaning of Harassment, Violence, and Sexual Violence, as well as the other terms of this policy;
- b) participating in Harassment, Violence, and Sexual Violence education and awareness initiatives;
- c) being familiar with available reporting procedures and Support Resources;
- d) treating other persons with respect;
- e) maintaining any confidentiality required, including during an investigation, notwithstanding the provisions outlined in 5.6; and
- f) exercising Academic Freedom in a respectful and professional manner consistent with the spirit of this policy.

#### 4.4. Members exercising their Academic Freedom will not be found to be committing an act of Harassment, Violence, or Sexual Violence unless the manner in which

the Academic Freedom is being exercised is unreasonable and meets the definition of those terms under this policy, its procedures, or related legislation.

## 5. Confidentiality

5.1. The University will endeavor to protect the confidentiality of Complainants, Respondents, witnesses and other persons involved in a matter relating to Harassment, Violence or Sexual Violence, including any corresponding investigation, subject to its obligations:

- a) to ensure procedural fairness for persons involved in an allegation;
- b) legislative obligations; and
- c) to ensure that those requiring information to fulfill their responsibilities under this policy have access to the necessary information.

5.2. The University's efforts in protecting confidentiality includes, but is not limited to, efforts to protect from unnecessary or unauthorized disclosure:

- a) the identity of persons involved;
- b) the particulars of any related incident; and
- c) the outcome of any investigation, mediation, informal or formal response.

5.3. Due to its obligations listed at Section 5.1, the University cannot guarantee confidentiality or anonymity in every instance. In certain situations, information that is provided to the University confidentially may need to be disclosed notwithstanding the wishes of the person who provided that information. Examples of such situations may include:

- a) where disclosure is necessary to inform the University Community of a specific or general threat, or potential threat, of Harassment, Violence, or Sexual Violence;
- b) where disclosure is necessary to inform an investigative process or to inform persons of the results of an investigation and any corrective measures taken in response; and
- c) where the University has a responsibility or obligation to disclose under legislation such as the *Alberta Occupational Health and Safety Act*, the *Freedom of Information and Protection of Privacy Act*, or the *Criminal Code*.

Where the University is obliged to disclose confidential information, it will do so only to the extent necessary to satisfy the purposes for which disclosure was obliged.

- 5.4. Members who are involved in a matter relating to a Harassment, Violence or Sexual Violence investigation, are required to respect the confidentiality of all persons involved, including other potential Complainants, witnesses or Respondents; notwithstanding the provisions outlined in 5.6. A Member who does not appropriately maintain this confidentiality may be subject to disciplinary action in accordance with this policy.
- 5.5. Personal information of Members involved in a matter relating to Harassment, Violence, or Sexual Violence shall be managed in accordance with the FOIP Act and any other relevant legislation and collective agreement obligations.
- 5.6. Members' obligations of confidentiality should not discourage them from accessing Support Resources as may be necessary. Maintaining confidentiality in the context of accessing Support Resources means avoiding disclosing personally identifying information of other Members involved in a matter relating to Harassment, Violence, or Sexual Violence, unless that disclosure is required under this policy, a collective agreement, legislation, or disclosure is needed to facilitate receiving the support needed by the Member.

## 6. Reporting and Responding to Allegations of Harassment, Violence or Sexual Violence

- 6.1. A Member who wishes to address an incident of, or make an allegation relating to, Harassment, Violence, or Sexual Violence, may do so in accordance with one of the following procedures:
  - a) if the allegation involves Sexual Violence, the **Addressing Sexual Violence Procedure**; or
  - b) for any other incident of Harassment or Violence, the **Addressing Harassment and Violence Procedure**.
- 6.2. Disclosures, Complaints, investigations, and other procedures will be as provided for within those procedures. If a Complainant is not sure which procedure is applicable, the Complainant may contact:
  - a) if the Complainant is a student, the Deputy Provost Academic Operations; or
  - b) for any other Member, the Deputy Chief Human Resource Officer.

6.3. Taking action under either procedure, including filing any Complaint, is not intended to discourage a Member from filing a complaint or proceeding under:

- a) any other University policy, procedure, or collective agreement; or
- b) in accordance with any relevant legislation or tribunal, including but not limited to the *Alberta Human Rights Act*.

## 7. Interim Measures

7.1. Upon becoming aware of an incident or allegation of Harassment, Violence, or Sexual Violence, the Reporting Officer will consider whether implementing Interim Measures are appropriate and necessary in the circumstances.

7.2. The decision to implement Interim Measures, and the selection of those measures, will be based on considerations that may include, but are not limited to:

- a) the nature and severity of the alleged conduct;
- b) credible information about patterns of behaviour or previous history of misconduct;
- c) the academic situation of the Complainant and Respondent, including remaining course work and time until program completion; and
- d) any other relevant policy, procedure, or collective agreement.

Interim Measures imposed will be as minimally restrictive as possible to achieve their purpose.

7.3. A decision to impose Interim Measures will be provided in writing to the Complainant and the Respondent, and will indicate:

- a) the particulars of the Interim Measures to be implemented;
- b) the duration of the Interim Measures, if known; and
- c) that the Respondent who is subject to the Interim Measures may seek an expedited review of those Interim Measures by filing a written request with:
  - i. if the Respondent is a student, the Provost & Vice President Academic for students; or
  - ii. for any other Respondent, the Chief Human Resource Officer.

7.4. Interim Measures will be re-evaluated at the earliest of:

- a) an investigation being completed and a Final Report having been provided to the University;
- b) the Complainant and Respondent reaching a mutually agreeable resolution;
- c) 90 days after the Interim Measures were first implemented or last reviewed;  
or
- d) such other time as the University determines appropriate in the circumstances.

7.5. The determination and implementation of any Interim Measures will be in accordance with any relevant provisions of a Member's collective agreement, where applicable.

7.6. Where Interim Measures are considered or implemented, any related documentation shall be maintained by Human Resources and retained in the manner provided for in Section 8.4.

## **8. Violations of the Policy**

8.1. It is a violation of this policy to:

- a) engage in Harassment, Violence, or Sexual Violence;
- b) make a frivolous, vexatious or bad faith allegation or Complaint of Harassment, Violence or Sexual Violence;
- c) engage in an act of retaliation or reprisal against an individual due to the individual having:
  - i. made a Disclosure, attempted an informal resolution, or filed a Complaint of Harassment, Violence or Sexual Violence;
  - ii. participated in any mediation or investigation; or
  - iii. exercised any other right or complied with any obligation under this policy or its procedures;

- d) knowingly or recklessly make a dishonest or inaccurate statement in response to, or as part of, any Disclosure, informal resolution, Complaint, mediation, investigation, or related procedure; and
- e) breach any expectations of maintaining confidentiality.

8.2. A violation of this Policy, including a violation of any related procedure, is a disciplinable event which may lead to:

- a) in the case of a student, suspension or expulsion from University courses;
- b) in the case of a Board Member, a recommendation the Board Member be removed from the Board of Governors;
- c) in the case of an employee, discipline up to and including termination, subject to the terms of any collective agreement;
- d) in the case of a contractor, other non-student or non-employee Member, or a non-Member, a termination of any ongoing relationship with that person; and
- e) any other remedy or response the University determines appropriate in the circumstances, with regard to any mitigating and aggravating factors.

8.3. The University reserves the right to pursue other remedies against any person found to have engaged in Harassment, Violence or Sexual Violence in addition to those provided for in this policy.

8.4. Records related to formal complaints shall be maintained by the Reporting Officer and retained in accordance with the FOIP Act, the University's record retention schedule, and other applicable policies or procedures, collective agreements, or legislation.

- a) In the case of employee Members, records of disciplinary action will also be maintained in the employee's personnel file, subject to any obligations in their collective agreement.

## 9. Applicable Legislation and Regulations

[Alberta Freedom of Information and Protection of Privacy Act \(FOIP Act\)](#)

[Alberta Human Rights Act](#)

[Canadian Human Rights Act](#)

[Charter of Rights and Freedoms](#)

[Criminal Code of Canada-R.S.C., 1985, c. C-46 \(Section 153.1\)](#)

[Post-Secondary Learning Act](#)

[Alberta Occupational Health and Safety Act](#)

[Occupational Health and Safety Regulation](#)

[Occupational Health and Safety Code\(s\)](#)

#### 10. Related Procedures/Documents

[AUPE/The Governors of Athabasca University \(the Board\) Collective Agreement](#)  
[CUPE/The Governors of Athabasca University \(the Board\) Collective Agreement](#)  
[AUFAs/The Governors of Athabasca University \(The Board\) Collective Agreement](#)  
[AUGSA/The Governors of Athabasca University \(The Board\) Collective Agreement](#)  
[Addressing Harassment and Violence Procedure](#)  
[Addressing Sexual Violence Procedure](#)  
[Formal Harassment, Violence and Sexual Violence Complaint Form](#)  
[Code of Conduct for Members of the University Community](#)  
[Non-Academic Misconduct Policy \(Academic, students\)](#)  
[Protected Disclosure \(Whistleblower\) Policy](#)  
[Protection of Privacy Policy](#)

#### History

<i>Date</i>	<i>Action</i>
May 8, 2019	Executive Team (Policy Approved)