

Senate met on September 21, 2022. This report contains items which are presented to the Board of Governors for its consideration and information.

## **I. FOR ACTION BY THE BOARD OF GOVERNORS**

### **1. Revised Policy against Sexual Violence** [D22-02]

Senate reviewed a recommendation to approve a revised the *Policy against Sexual Violence*. McGill's Policy against Sexual Violence (PSV) was most recently reviewed in 2019. This document represents the results of the most recent triennial review, carried out earlier this year (Winter and Summer 2022 terms). Several updates were required for the Policy to represent the creation of the Office for Mediation and Reporting (OMR) as well as adjustments to our processes for investigations of reports of sexual violence, drawing on experience over the last three years, and feedback from members of the working group struck to review the Policy.

The timing of the 2022 triennial review was opportune, given that legislative changes (Act to modernize legislative provisions as regards the protection of personal information, SQ 2021, c 25, amending section 4 of the Act to prevent and fight sexual violence in higher education institutions CQLR c P-22.1), necessitate amendments to our PSV. Specifically, Quebec law now requires institutions of higher education to share information about disciplinary outcomes with survivors who so request following investigations that have led to a finding of sexual violence.

Following its review, Senate approved and recommended to the Board of Governors for approval the proposed revised policy, which is included as Appendix A.

*Be it resolved that the Board of Governors, on the recommendation of Senate, approve the proposed revisions to the Policy against Sexual Violence, included as Appendix A.*

### **2. Report of the Senate Nominating Committee** [D22-01]

#### **2.1 Appointments to the Committee on Staff Grievances and Disciplinary Procedures**

Senate's recommendations concerning appointments to the Committee on Staff Grievances and Disciplinary Procedures are submitted for approval to the Board of Governors in accordance with the *Regulations Relating to the Employment of Academic Staff*.

*Be it resolved that the Board of Governors, on the recommendation of Senate, approve the appointment of the following Professor to the Committee on Staff Grievances and Disciplinary Procedures for a term beginning immediately, and ending August 31, 2025:*

- *Michael Ngadi (Bioresource Engineering, AES)*

*Be it resolved that the Board of Governors, on the recommendation of Senate, approve the appointment of the following Professor as Vice-Chair of the Committee on Staff Grievances and Disciplinary Procedures for a term beginning immediately, and ending August 31, 2024:*

- *John White (Physiology, MEDICINE)*

## **II. FOR THE INFORMATION OF THE BOARD OF GOVERNORS**

### **1. Report of the Senate Nominating Committee** [D22-01]

On the recommendation of the Senate Nominating Committee, Senate approved appointments to Senate Standing Committees, Committees arising from University Regulations, and Advisory Committees. For the Board's information, the following individuals will serve as Senate representatives on Advisory Committees:

#### Advisory Committee for the Selection of the Vice-Principal (Health Affairs) and Dean of the Faculty of Medicine and Health Sciences

- Melanie Dirks (Faculty of Arts)
- Gary Brouhard (Faculty of Science)
- Victoria Talwar (Faculty of Education)
- Alanna Watt (Faculty of Science)
- Linda Wykes (Human Nutrition, AES) [alternate]
- Doina Precup (Computer Science, SCIENCE) [alternate]

#### Advisory Committee for the Selection of a Dean of Engineering

- Vijaya Raghavan (Faculty of Agricultural and Environmental Sciences)
- Jaye Ellis (Faculty of Law)
- John Zucchi (Faculty of Arts)
- David Stephens (Faculty of Science)
- Elizabeth Fixman (Experimental Medicine, MEDICINE) [alternate]
- Anne-Marie Lauzon (Experimental Medicine, MEDICINE) [alternate]

#### Advisory Committee for the Possible Reappointment of the Dean of the Faculty of Dental Medicine and Oral Health Sciences

- Laura Nilson (Faculty of Science)
- Luke McCaffrey (Faculty of Medicine and Health Sciences)
- Matthew Harrington (Faculty of Science) [alternate]

#### Advisory Committee for the Possible Reappointment of the Dean of the School of Continuing Studies

- Kevin Wade (Faculty of Agricultural and Environmental Sciences)
- Miranda Hickman (Faculty of Arts)
- Laura Pavelka (Faculty of Science) [alternate]

Advisory Committee for the Selection of the Vice-Principal (Research and Innovation)

- Nancy Heath (Faculty of Education)
- Andrew Kirk (faculty of Engineering)
- Daniel Bernard (Faculty of Medicine and Health Sciences)
- Salwa Karboune (Faculty of Agricultural and Environmental Sciences)
- Brad Siwick (Chemistry, SCIENCE) [alternate]
- Thomas Brunner (Physics, SCIENCE) [alternate]

**2. Report of the Equity, Diversity, and Inclusion Committee (D22-03)**

Senate received this report for information. It contained an overview of matters discussed by the Committee at its meeting of September 13, 2022.

**3. Annual Report of the Committee on Student Services (D22-04)**

This report was presented to Senate for information, in accordance with the Committee's Terms of Reference. It provided an overview of the Committee's activities undertaken in 2021-2022.

**4. New Regulations on Academic Staff Grievances and Disciplinary Procedures (D22-05)**

This item was presented to Senate for information. It addressed academic staff grievance and disciplinary matters within a stand-alone document, and aimed to render relevant processes more efficient and equitable. It is expected to be presented to Senate for consideration at its meeting of October 19, 2022, after which it will be presented to the Board for consideration.

**END**  
**October 2022**



<b>POLICY NAME</b>	<b>POLICY AGAINST SEXUAL VIOLENCE</b>
<b>Approving Body</b>	Board of Governors
<b>Initial Approval Date</b>	Senate: November 23, 2016 Board of Governors: December 1, 2016
<b>Date of last review</b>	March 28, 2019
<b>Date of next review</b>	March 2022
<b>Executive Sponsor</b>	Provost and Vice-Principal (Academic)
<b>Related Documents</b>	<a href="#">Procedures for the Investigation of Reports of Sexual Violence</a>

### Preamble

McGill University is committed to creating and sustaining a safe environment through proactive, visible, accessible, and effective approaches that seek to prevent and respond to Sexual Violence. The University further recognizes the singular importance of striving toward an equitable environment in which all Members of the University Community are respected, safe and free from violence, especially Sexual Violence. This Policy fulfills the interests and needs of the McGill community and the requirements set by law with respect to Sexual Violence prevention and response in our University.

The University does not tolerate Sexual Violence in any form. It acknowledges that attention to Sexual Violence is particularly important in university campus settings, and that the University has a role to play in preventing and responding to Sexual Violence. It further acknowledges that, while Sexual Violence impacts all members of society, Sexual Violence and its consequences may disproportionately affect members of social groups who experience intersecting forms of systemic discrimination or barriers (on grounds, for example, of gender, sexual orientation, gender identity and expression, race, religion, Indigenous identity, ethnicity, disability or class).

The University recognizes that Sexual Violence often involves power imbalances and is under-reported on account of a range of reasons, which include stigmatization, the risk of further trauma and difficulties associated with investigating and imposing sanctions for Sexual Violence. This Policy focuses on ensuring support for Survivors. The University commits to support Survivors based on their personal experiences, whether or not a criminal offence has been proven, and whether or not the Survivor chooses to make a Report through University or external law enforcement processes.

Members of the University Community are prohibited from engaging in any form of Sexual Violence. Understanding that Sexual Violence is an act of misconduct, this Policy is accompanied by Procedures by which Reports of Sexual Violence are investigated and may lead to disciplinary sanctions.

The central objectives of this policy include:

- Sexual Violence prevention through education and other systemic and proactive efforts to promote awareness about the nature and effects of Sexual Violence;
- establishing and maintaining a climate and culture in which all members of the University Community enjoy a safe and respectful working and learning environment;
- support for Survivors; and
- effective and timely response to Disclosures and Reports.

These objectives are pursued through a commitment to the values of Trauma-Informed investigations and Procedural Fairness.

## General

1. This Policy applies to all Members of the University Community.
2. This Policy extends to all Sexual Violence.
3. This Policy complements and does not derogate from or supersede other University policies, regulations or applicable collective agreements, including those that establish disciplinary and administrative processes, such as McGill's *Code of Student Conduct and Disciplinary Procedures, Regulations Relating to the Employment of Tenure Track and Tenured Academic Staff, Policy on Harassment and Discrimination* ~~Prohibited by Law~~, *Regulation on Conflict of Interest* and Labour Relations policies applying to non-academic and non-unionized staff.
4. No Member of the University Community who makes a Disclosure or a Report or who is named as a Respondent under this Policy may be subject to harassment or retaliation. Survivors who believe they have been subject to harassment or retaliation may contact the OSVRSE for support and information. Respondents who believe they have been subject to harassment or retaliation may contact McGill Student Advocacy (in the case of students) or their union or staff association (in the case of academic staff or administrative and support staff) for support and information.
5. The University recognizes that some individuals may be hesitant to disclose or report sexual violence in cases where they have been drinking or using drugs at the time Sexual Violence took place. The University will provide the Survivor with support and information about making a Report regardless of whether the context in which sexual violence occurred involved alcohol or drug use. In addition, a person acting in good faith who makes a Disclosure or Report of Sexual Violence will not be subject to actions for violations of the University's policies related to cannabis and alcohol use at the time that the Sexual Violence took place.
6. Any Member of the University Community who is of the view that the University has not adhered to the requirements set by this Policy may pursue a recourse through the grievance process established by the applicable University regulation and/or collective agreement.

## Definitions

7. For the purposes of this Policy, the following definitions apply:
  - a. "Conduct of a Sexual Nature" means any conduct which, in whole or in part:
    - i) seeks the sexual attention or sexual favour of the person to whom it is directed;or

- ii) treats the other person as an object of sexual desire;  
or
  - iii) is discriminatory or hostile to a person because of the person’s sex or gender identity; and that is known or ought reasonably to be known to create for such a person an intimidating, hostile, or offensive working, learning, extracurricular or, in the residences, living environment.
- b. “Consent” means free, informed, expressed and ongoing agreement to engage in sexual activity and cannot occur when a person is incapable of consenting to the activity, for example, when a person is rendered incapacitated by alcohol or drugs, is unconscious, or where the sexual activity has been induced by conduct that constitutes an abuse of a relationship of trust, power, or authority. Consent to sexual activity can be revoked at any time.
- c. “Days” means calendar days.
- d. “Disclosure” means the act of informing the Office for Sexual Violence, Response, Support, and Education about an incident of Sexual Violence for the purpose of seeking support.
- e. “Member of the University Community” means the following:
- i) anyone holding office under the University Charter and Statutes;
  - ii) an appointee or employee of the University; or
  - iii) a student as defined in Section 1 of the *Code of Student Conduct and Disciplinary Procedures*.
- f. “Office for Mediation and Reporting” or “OMR” means the University office that receives Reports of Sexual Violence.
- ~~f.g.~~ “Office for Sexual Violence Response, Support and Education” or “OSVRSE” means the University office that establishes and coordinates processes for supporting Survivors who make Disclosures or Reports and for education initiatives that seek to raise awareness about and prevent Sexual Violence on campus.
- ~~g.h.~~ “Procedural Fairness” means a process: (i) based on impartiality and absence of bias; (ii) where the parties are informed of the allegations made against them; (iii) that includes a meaningful opportunity to defend against such allegations, including the right to be given sufficient notice of interviews or meetings where they are expected to present evidence or their perspective on the facts or on evidence gathered as part of the process; and (iv) leading to a decision that includes a sufficiently detailed explanation of the grounds on which it is based in such a way that the parties can understand the basis on which it is made.
- ~~h.i.~~ “Report” means the act of informing the ~~Special Investigator~~OMR about an incident of Sexual Violence in accordance with this Policy for the purpose of investigation.
- ~~i.j.~~ “Respondent” means ~~an a Member of the University Community individual~~ who is alleged to have committed an act of Sexual Violence in a Report made by a Survivor.
- ~~j.k.~~ “Sexual Violence” means sexual act or acts targeting a person’s sexuality, gender identity, or gender expression that is committed, threatened, or attempted against a person without the person’s Consent and may occur in person, in writing, by phone, or by any means of

communication, including online and social media. Sexual violence can be committed by anyone, including but not limited to a spouse, an intimate or dating partner, a friend or acquaintance, a family member, a known individual, or a complete stranger. In this Policy, Sexual Violence includes:

- i) *sexual assault*, meaning sexual contact with another person without that person's Consent;
  - ii) *sexual harassment*, meaning Conduct of a Sexual Nature
    - (A) whereby sexual activity:
      - 1. is made an explicit or implicit term or condition of an individual's employment or status in a course, program, or activity; or
      - 2. is used as a basis for an employment or educational decision affecting an individual;
    - or
    - (B) the effect of which is to impair that person's work or educational performance where it is known or ought to be known that the conduct is unwelcome;
  - iii) *stalking*, meaning repeatedly watching or following another person, where the person making a Disclosure or Report feels that the stalking is connected with gender or sexual identity;
  - iv) *indecent exposure*, meaning exposing one's genitals in a public place or to another person in a manner that is threatening or offensive;
  - v) *voyeurism*, meaning the surreptitious observation or recording of a person by mechanical or electronic means;
  - vi) *distribution, sharing, or sending of sexual images*, meaning the distribution ~~of~~, sending, or permitting the viewing of an image, photo, or video ~~of a person~~ of a sexual nature, ~~without that person's~~ the Consent of the person who is the object or recipient of the image, photo, or video; and
  - vii) *sexual exploitation*, meaning abuse or *exploitation* of another person's *sexuality* for the purpose of *sexual* gratification, financial gain, personal benefit or advantage, or any other non-legitimate purpose.
- k. "Survivor" means any person who has experienced Sexual Violence, including individuals who self-identify as a victim or victim/survivor. Use of the term "Survivor" throughout this Policy is not intended to suggest that the outcome of any investigation is predetermined, and this term will not prejudice or sway the outcome of an investigation into any Report.
- l. "Teaching Staff" means every person delivering any component of an academic program, including, but not limited to: undergraduate and graduate courses, supervision of graduate or undergraduate students, supervision of post-doctoral researchers, and services delivered by University librarians and archivists. "Teaching Staff" in this Policy also means teaching assistants and coaches of University athletic teams.
- m. "Trauma-Informed" means an approach that respects individual dignity and autonomy during processes associated with making a Disclosure or a Report, based on an understanding of: the impact that trauma can have on behaviour, decision-making, memory, and willingness to seek services or accommodations or in reporting incidents of Sexual Violence. A Trauma-Informed approach further rejects myths and stereotypes about Sexual Violence (for example, that a person can give Consent by the way they dress or by being intoxicated) and recognizes the impact that Sexual Violence may have not just on an individual, but on communities, as well as the



disproportionate impact of Sexual Violence on women, gender minorities, and persons who are racialized, Indigenous, and/or disabled. All processes under this Policy shall be Trauma-Informed.

- n. “University Context” means an occurrence:
- i) on University premises;
  - ii) within the context of a University-sponsored program or event or activity whether on-campus or off-campus (e.g., University-sponsored competitions or field trips/studies); or
  - iii) off-campus, including online or in social media, where the conduct has consequences that may be reasonably seen to adversely affect:
    - o the safety of students, faculty or staff while on campus or while participating in a University-sponsored program, event or activity;
- or
- o the right of a Member of the University Community to use and enjoy the University’s learning or working environment.

### **Code of Conduct: Romantic and Sexual Relationships between Teaching Staff and Students**

**8.1** The University is committed to cultivating and maintaining a safe academic environment for students based on integrity and respect. Students have the right to a safe and respectful learning environment that fosters their academic success. Members of the Teaching Staff bear the responsibility of conducting themselves with professionalism and integrity at all times in their contacts with students. The following Code of Conduct applies to all members of the Teaching Staff:

- i) No member of the Teaching Staff may enter into or initiate a sexual or romantic relationship with a student where the member of Teaching Staff:
  - a. has academic authority over the student;
  - b. has an influence over the student’s academic progress; or
  - c. collaborates academically with the student.
- ii) Breach of the prohibition set by Section 8.1(i) shall be subject to a disciplinary sanction of at least suspension without pay, unless the facts warrant a less severe sanction. The member of the Teaching Staff may also be subject to administrative measures.
- iii) With the exception of graduate students who hold appointments as Teaching Staff (e.g., as teaching assistants), if a member of the Teaching Staff enters into a romantic or sexual relationship with a student not included in the prohibition defined in Section 8.1(i), but where the student is nevertheless enrolled in the Teaching Staff member’s Faculty or where it is likely that the Teaching Staff member will have academic authority or influence over the student’s academic progress (e.g., where the Teaching Staff member teaches a mandatory course in the program in which the student is enrolled), the Teaching Staff member must immediately disclose the intention to enter into this relationship. The disclosure must be in writing following the process prescribed by the Regulation on Conflict of Interest. In such cases, administrative measures will be implemented to ensure that the Teaching Staff member has no academic authority or influence over the student concerned.
- iv) Romantic or sexual relationships between a member of the Teaching Staff and a student in the same Faculty, which existed *before* the student enrolled at McGill or before the member of the Teaching Staff had an academic appointment at McGill, are governed by the Regulation on Conflict of Interest.

- 8.2 Romantic or sexual relationships in the context of other relationships characterized by a power differential (e.g., professors and the heads of their academic unit; staff and their managers) are governed by the Regulation on Conflict of Interest.
- 8.3 In interpreting and applying this Code of Conduct, the University shall take into consideration the varied settings in which students pursue their respective educational programs (e.g., field, clinical, graduate, continuing studies).
- 8.4 In this Code of Conduct, “student” includes any postdoctoral fellow, whether deemed an employee or not.
- 8.5 The University shall ensure that it communicates about, and delivers education on, this Code of Conduct to all Members of the University community.
- 8.6 Breach of this Code of Conduct on Romantic and Sexual Relations between Teaching Staff and students are in violation of the present Policy and are subject to the Procedures associated with this Policy.

### Implementation Committee

- 9. This Policy’s objectives shall be pursued and monitored by a standing implementation committee that includes representation of students, academic staff, and administrative and support staff, and may be divided into area- or theme-specific subcommittees or taskforces to examine and address specific issues. ~~This~~ The implementation committee will evaluate and annually report on matter such as:
  - a. the allocation of resources for pursuing the Policy’s objectives, including provision for appropriate and accessible physical space for the OSVRSE and the OMR;
  - b. the appointment of adequate and qualified staff within the OSVRSE and the OMR with capacity to respond to, and develop awareness about, the impact that potentially intersecting factors, such as racial, religious, gender and sexual identity, may have on experiences of Sexual Violence;
  - c. the establishment, within the OSVRSE, of services to inform and support Survivors, especially in connection with navigating Disclosure and Reporting processes;
  - d. the development of a confidential monitoring framework, which includes recording the number of Disclosures and Reports, to ensure ongoing assessment of the effectiveness of the University’s responses to Sexual Violence, and to inform Senate reporting and the triennial review of this Policy;
  - e. the review and strengthening of existing support, education, communication, prevention, and training measures and resources, including those provided through existing orientation sessions for students, academic staff, and administrative and support staff;
  - f. educational strategies and initiatives, bearing in mind the University’s obligation to ensure training for all Members of the University community about Sexual Violence, its prevention, and University resources for responding to Disclosures and Reports;
  - g. stakeholder engagement and consultation (for example: SSMU, PGSS, MACES, MCSS, SACOMSS, McGill Equity Education Advisors, the University JBSC/EEDI Committee, AGSEM, AMURE, AMUSE, MAUT, MUNACA, MUNASA, MCLIU, SEU);
  - h. the review, through consultation with Security Services, of University infrastructure and safety measures to maintain the physical safety of the campus premises, notably in University residences.

### Education and Awareness

- 10. The University, guided by the OSVRSE, shall take proactive and visible measures to provide education, guidelines and dissemination of information relating to Sexual Violence and varied impacts of Sexual Violence through a variety of means, as appropriate, including the following:

- a. informational cross-campus campaigns at the outset of each academic term using multiple media formats about: the Policy, its associated resources, and the shared role of all Members of the University Community in preventing Sexual Violence;
- b. ensuring that contractors offering services on campus are informed of, and abide by, the Policy;
- c. onboarding, orientation, training, and information sessions within various sites where faculty, staff, and students work, live and learn including in collaboration with various campus services;
- d. a dedicated accessible website that includes information about the nature of Sexual Violence, resources within and outside the University relevant to Survivors and their supporters, and about the processes associated with making a Disclosure or a Report;
- e. mandatory orientation and training sessions for all students, academic staff and administrative and support staff intended to raise awareness about Sexual Violence and about the shared role of all Members of the University Community in preventing Sexual Violence;
- f. mandatory training about: effective, Survivor-focused methods of responding to Disclosures, [the factors that might inhibit Disclosures and Reports \(e.g., a Survivor's fear of retaliation\)](#), when and how to notify and confer with University authorities about situations that pose a potential risk of Sexual Violence for the University community, and the [Procedures](#) for making a Report, delivered to:
  - i) academic, administrative, and support staff who provide front-line health and counseling student services;
  - ii) University Residences staff;
  - iii) Security Services staff;
  - iv) Human Resources advisors; and
  - v) persons holding academic leadership positions (e.g., Deans, Chairs, Directors, Associate Deans, Graduate and Undergraduate Program Directors).
- g. mandatory training for all persons who exercise disciplinary authority (e.g., Deans, disciplinary officers) about: Sexual Violence, its impact on individuals and communities, and Procedural Fairness;
- h. education initiatives that develop awareness about the impact that potentially intersecting factors, such as racial, religious, gender and sexual identity, may have on experiences of Sexual Violence; and
- i. information campaigns that communicate 24/7 contact information for McGill Security Services on the Downtown and Macdonald campuses.

### Responding to Disclosures

- 11. The University shall offer support to Survivors who are Members of the University Community regardless of where or when the incident of Sexual Violence occurred, [and regardless of whether the Disclosure concerns a Member of the University Community](#).
- 12. The OSVRSE, when receiving a Disclosure, shall make all reasonable efforts to do the following, as applicable, with a view to informing and empowering Survivors:
  - a. listen compassionately;
  - b. refrain from questions or comments that imply judgment or blaming of the Survivor (such as questions or comments about the Survivor's dress, conduct, language, emotional disposition, past sexual history, consumption of alcohol or drugs, or about the timing of the Disclosure);
  - c. inform about and support access to appropriate University services, including health and counseling services;

- d. inform about and support access to appropriate services beyond the University, such as law enforcement and legal, health and social services;
  - e. encourage the Survivor to seek support and care, while not directing the Survivor to use particular resources or take specific recourses, either within or outside of the University;
  - f. respect the Survivor's privacy, confidentiality, and decisions about whether to report to law enforcement authorities, except in cases where the University would have a legal obligation to act (e.g., cases involving minors or cases in which there are reasonable grounds to believe a party poses a serious and credible risk of self-harm to harm to another person). In such cases the Survivor will be informed and supported;
  - g. respect the Survivor's wishes in regard to being accompanied by a person who provides support throughout the duration of processes associated with making Disclosures;
  - h. inform about the process associated with making a Report, including the length of time that an investigation and disciplinary process may take;
  - i. respect the Survivor's decision to, at any time, discontinue involvement in any process associated with a Disclosure;
  - j. recognize and account for intersectional identities and experiences, as well as the disproportionate effect of Sexual Violence on women, gender minorities, and persons who are racialized, Indigenous, and/or disabled;
  - k. strive to ensure that a Survivor need not unnecessarily recount the details of an experience of Sexual Violence multiple times;
  - l. deliver services to the Survivor in the official language of the Survivor's choice.
13. Where a Disclosure raises concerns about a learning, living, or working environment within the University, OSVRSE will consult with the Survivor and with appropriate University authorities (e.g., Dean of Students, Faculty Dean, Student Housing & Hospitality, Security Services, Human Resources, Legal Services) to assess whether measures are needed to maintain a respectful environment for learning, living, or working. These measures may include: periodic meetings with the Survivor or working with the relevant area of the University that is a subject of concern to raise awareness about Sexual Violence, its prevention, and the responsibilities this Policy sets for Members of the University Community. These measures do not prevent or substitute for making a Report.
14. The University shall grant reasonable accommodations to a Survivor who makes a Disclosure where the need for accommodations results from an incident of Sexual Violence. Such accommodations may include, for example: exam or assignment deferrals, late withdrawal from a course without a transcript "W", allowing tuition reimbursement for courses from which the Survivor must withdraw, priority access to the Student Wellness Counselling Services Hub offered by Student Services, a change in either or both party/ies' course, course schedule or class section, or a change in University residence, and, for staff, a change in work/office location, assignment(s), and/or schedule, where appropriate. The University shall make and communicate a decision about reasonable accommodations within 7 Days of a request.
15. Although the University responds to Disclosures principally through the OSVRSE, a Survivor may disclose an incident of Sexual Violence to other Members of the University Community, who shall endeavour to:
- a. listen compassionately;
  - b. refrain from questions or comments that imply judgment or blaming of the Survivor (such as questions or comments about the Survivor's dress, conduct, language, emotional disposition, past sexual history, consumption of alcohol or drugs, or about the timing of the Disclosure);
  - c. communicate with the OSVRSE with a view to providing the Survivor with necessary support and information, provided that the Survivor gives permission for such communication; and
  - d. respect the Survivor's privacy.

## Responding to Reports

### ~~Special Investigator~~

16. Reports of Sexual Violence shall be filed with the OMR, which will conduct an initial review of the Report according to the Procedures that accompany this Policy.

### Jurisdiction

17. The University will investigate can receive a Report where the alleged Sexual Violence occurred in a University Context and where the Respondent is, at the time the Report is made, a Member of the University Community.
18. A Survivor who is not a Member of the University Community may make a Report and an investigation may proceed provided that the alleged Sexual Violence occurred in a University Context and the Respondent is, at the time of the Report is made, a Member of the University Community.
19. There is no time limit for filing a Report.
20. If the Special Investigator OMR determines that the University does not have jurisdiction to investigate a Report, the Special Investigator OMR will advise the Survivor of this decision and provide reasons. If the Special Investigator OMR believes that the Report discloses other kinds of misconduct or information on which the University may need to act under another University policy or process, the Special Investigator OMR shall refer the Report or relevant portions thereof to the appropriate University authority. The Special Investigator OMR will consult with the Survivor before referring the Report or information from the Report to another University authority.

### Proposing Mediation

21. If the OMR determines that the University has jurisdiction to investigate a Report, the OMR may recommend mediation as a voluntary option that the Survivor may wish to pursue at the time a Report is filed shall provide the option of mediation to the parties, in accordance with the Procedures associated with this Policy. If either or both parties decline mediation, the Report proceeds to an investigation.

### Investigations

~~a Special Investigator.~~

22. Where a Report proceeds to an investigation, the investigation is led by a Special investigator.
23. The Special Investigator shall be an independent and impartial person with expertise in investigations who is trained in Trauma-Informed processes and in the manner in which persons of diverse identities might experience Sexual Violence. The Special Investigator is further trained in Procedural Fairness.
- ~~18. The role of the Special Investigator is to investigate Reports.~~
- ~~19~~24. The Special Investigator does not advocate for any party or take sides on any Report.
25. The Special Investigator's investigations shall:

- a. be Trauma-Informed;
- b. maintain Procedural Fairness;
- c. recognize and account for intersectional identities and experiences, as well as the disproportionate effect of Sexual Violence on women, gender minorities, and persons who are racialized, Indigenous, and/or disabled; and
- d. adhere to established [Procedures](#) associated with this Policy. These Procedures shall be established and reviewed at least every two years in consultation with the groups identified in section ~~54~~ and with Senate.

26. The Special Investigator shall have an accessible space to meet with parties and witnesses both on and off the University campus, depending on the choice of the party or witness.

~~27. The Special Investigator shall provide the option of mediation to the parties, in accordance with the Procedures associated with this Policy.~~

~~29.~~27. The Special Investigator shall conduct and complete an investigation within 90 Days.

~~28.~~ In any case where a Survivor withdraws a Report ~~or where a Report is made by someone other than the Survivor, and where~~ the Special Investigator nevertheless investigates the Report, the Survivor shall have the right not to participate in the investigation.

~~30.~~29. A Survivor shall have the right not to participate in the investigation of a Report made by a third-party.  
Jurisdiction

~~17. The University will investigate a Report where the alleged Sexual Violence occurred in a University Context and where the Respondent is, at the time the Report is made, a Member of the University Community.~~

~~17. A Survivor who is not a Member of the University Community may make a Report and an investigation may proceed provided that the alleged Sexual Violence occurred in a University Context and the Respondent is, at the time of the Report, a Member of the University Community.~~

~~18.~~17. There is no time limit for filing a Report.

~~18.~~17. If the Special Investigator determines that the University does not have jurisdiction to investigate, the Special Investigator will advise the Survivor of this decision and provide reasons. If the Special Investigator believes that the Report discloses other kinds of misconduct or information on which the University may need to act under another University policy or process, the Special Investigator shall refer the Report or relevant portions thereof to the appropriate University authority. The Special Investigator will consult with the Survivor before referring the Report or information from the Report to another University authority.

#### Other Recourses

~~29.~~30. Nothing in this Policy precludes a party from exercising any external legal recourse available or from reporting an incident of Sexual Violence to law enforcement authorities. Similarly, accessing external recourses does not interfere with a person's right to obtain support and make a Report at the University.

#### **Decisions and Measures Following an Investigation**

31. Upon the completion of an investigation, the Special Investigator shall submit a report to the Provost with a copy to the ~~OMR. The Survivor and the Respondent will also receive a copy of the report.~~
32. The submission of the report by the Special Investigator concludes the investigation. This report shall contain the findings of relevant facts and a conclusion as to whether or not the evidence is sufficient to find, on a balance of probabilities, that Sexual Violence occurred. The report shall also include a recommendation as to whether disciplinary or administrative measures should be taken.
33. The Provost may seek further information or clarification from the Special Investigator in regard to any issue or concern arising from the investigative report before making a final decision regarding discipline the recommendations in the report.
34. If, following an investigation, the Special Investigator's report determines that the evidence is insufficient to find that Sexual Violence has occurred, the Provost shall, within 14 Days of receipt of the investigative report, ~~communicate with confirm to~~ the parties in writing to confirm that the matter is closed, ~~with a copy to the OMR. The Provost shall include with this communication a copy of the investigative report. Nevertheless, in such cases, the Provost may, on the basis of conclusions and recommendations in the Special Investigator's report, refer the matter, with a copy of the report, to the appropriate University disciplinary authority to determine whether disciplinary or administrative measures are warranted on grounds other than Sexual Violence. The Provost shall copy the parties on this correspondence with the appropriate University disciplinary authority.~~
35. If the investigative report determines that the evidence is sufficient to find that Sexual Violence has occurred, the Provost ~~will~~shall, within 14 Days of receipt of the investigative report, refer the matter, with a copy of the investigative report, to the appropriate University disciplinary authority. The Provost shall, at the same time, communicate with each of the parties separately to provide them with a copy of this correspondence with the University disciplinary authority, which shall include a copy of the investigative report~~copy the parties on this correspondence with the appropriate disciplinary authority. The Provost shall copy the OMR on the correspondence with the University disciplinary authority and with each of the parties.~~
36. The disciplinary authority shall not reinvestigate the facts of the case. The Special Investigator's report will be used as evidence in any disciplinary process instituted by the Provost.
37. The appropriate University disciplinary authority is:
  - a. in the case of a student, the disciplinary officer as defined in the Code of Student Conduct and Disciplinary Procedures;
  - b. in the case of a member of academic staff, the Dean of the Faculty in which the staff member is appointed;
  - c. in the case of a member of the administrative or support staff, the staff member's immediate supervisor, who shall in all cases seek advice from the University's Labour Relations Group;
  - d. in the case of a Vice-Principal, the Principal; and
  - e. in the case of the Principal, the Chair of the Board of Governors.
38. Upon being referred a copy of the investigative report from the Provost, the appropriate disciplinary authority will determine what disciplinary and/or administrative measures are appropriate and will oversee the administration of such measures.
38. When making decisions as to appropriate disciplinary or administrative measures, the disciplinary authority must consider:

- a. the impact of Sexual Violence on the Survivor, as expressed through a written statement that the Survivor shall have the option to submit to the relevant disciplinary authority;
  - b. The impact that Sexual Violence can have on communities;
  - c. Procedural Fairness as applicable in the context;
  - d. The principle of progressive discipline or gradation in sanctions;
  - e. The nature and severity of the incident;
  - f. The University's role as an educational institution;
  - g. The requirements set by applicable University regulations (e.g., the *Code of Student Conduct and Disciplinary Procedures* and the *Regulations Relating to the Employment of Academic Staff* in the case of tenure-track and tenured academic staff), collective agreements; and
  - h. Any other relevant factors.
39. Disciplinary outcomes, in the case of a student, are described in the *Code of Student Conduct and Disciplinary Procedures* may include, but are not limited to:
- a. an admonishment
  - b. a reprimand
  - c. conduct probation and associated conditions (e.g., cease and desist communication)
  - d. suspension
  - e. expulsion
40. Disciplinary outcomes, in the case of an employee described in regulations and collective agreements of the university and may include, but are not limited to:
- a. letter of reprimand
  - b. suspension without pay
  - c. dismissal from the University
41. Disciplinary measures may be accompanied by other administrative measures that may include, but are not limited to:
- a. education and training
  - b. counselling
  - c. supervision/oversight of the teaching/learning/work environment concerned
  - d. limitation or elimination of supervisory privileges over undergraduate or graduate students, teaching assistants, or research assistants
  - e. "no contact" or "no communication" directives
  - f. structural measures, such as the requirement that an academic unit (e.g., Department, School, Institute, or Centre) or administrative unit (i.e., office or area that does not deliver academic programs, e.g., Residences, Facilities, Human Resources, Athletics & Recreation) undergo a climate review organized and led by one or more persons with relevant expertise from outside the unit concerned, with a view to improving the working and/or learning environment.
- 41.1 Where administrative measures are taken, the University shall take all reasonable measures to avoid or minimize adverse consequences for the Survivor.
42. ~~Once~~ The appropriate University authority ~~has~~ shall determine, within 30 days, the disciplinary and/or administrative measures to be imposed ~~and will thereafter, that authority will inform report to~~ the Provost, with a copy to the OMR, on the process followed and measure(s) applied. If the



authority disagreed with a recommendation of the Special Investigator about disciplinary or administrative measures, reasons shall be provided in writing.

43. ~~Upon receipt of the report from the University disciplinary authority on disciplinary and/or administrative measures applied, the OMR will inform the Survivor, in writing. Once the appropriate University disciplinary authority has determined the disciplinary and/or other measures to be imposed or not, that disciplinary authority shall provide the Survivor with a written confirmation that the disciplinary process is complete and that the process abided by the requirements of this Policy and any other applicable regulation, policy, or collective agreement.~~
44. Nothing in this Policy derogates from the Provost's authority to take measures to address structural or systemic concerns raised by the findings set out in the Special Investigator's report.

#### Release of Information to a Survivor

45. ~~Where thea Survivor who filed a Report after 22 September 2022 seeks information about measures taken by the University toward the Respondent named in their Report following an investigation and disciplinary process, the Survivor shall make a request for this information through the OMR.~~
46. ~~The University, through the OMR, shall inform the Survivor, in writing within 30 Days of the request received pursuant to s. 45:~~
- ~~• whether disciplinary and/or administrative measures were imposed on the Respondent and, if so, the nature of these measures; and~~
  - ~~• that the information disclosed is the personal information of the Respondent and must be treated as confidential. This means that the Survivor may not disclose this information to third parties except in the context of communications covered by professional privilege.~~
47. ~~The University, through the OMR, shall inform the Respondent of any information shared with a Survivor pursuant to section 45.~~
- ~~43.1 Notwithstanding Section 43, as a result of the legislative framework in force at the time of this Policy's adoption,\* information about any disciplinary or administrative measures imposed on a Respondent may not be disclosed to the Survivor without the Respondent's express permission. The University may, however, inform the Survivor of administrative measures imposed on the Respondent that pertain to the Survivor's safety on campus.~~
47. Nothing in this Policy derogates from the Provost's authority to take measures to address structural or systemic concerns raised by the findings set out in the Special Investigator's report.

#### **Immediate Measures**

48. Where the OSVRSE, ~~the OMR or,~~ or the Special Investigator, or where a Department Chair, Director, or Senior Manager, is of the view, based on a Disclosure or a Report, that there may be a risk of harm to any Member of the University Community, they shall consult with the appropriate University authorities (e.g., the relevant Faculty Dean or Dean of Students, Security Services, and/or Legal Services) about the implementation of immediate measures necessary to protect any Member of the University Community.

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\* See Appendix 1.

49. Before deciding whether to implement immediate measures, the University shall, through the OSVRSE, [the OMR](#), or the Special Investigator, consult with the Survivor. Decisions concerning immediate measures rest with the appropriate University authority.
50. The implementation of immediate measures shall adhere to applicable University policies, regulations, and collective agreements, and Quebec law.
51. Immediate measures may be taken whether or not the Survivor makes a Report and may be implemented before or during the course of an investigation into a Report.
52. Any immediate measures instituted shall comply with University regulations, policies, and collective agreements, and shall ensure that Procedural Fairness, as applicable in the context, is maintained. Such measures may include, but are not limited to:
  - a. voluntary measures (i.e., those agreed to by the Respondent);
  - b. an order to cease and desist communication;
  - c. devising and implementing alternate academic (e.g., course changes or reimbursement of fees associated with academic tuition), extra-curricular, residential, or work arrangements with respect to the Survivor and Respondent;
  - d. temporarily excluding the Respondent from campus or limiting that person's role, privileges, or duties, in accordance with applicable University policies, regulations, and collective agreements.

#### **Reporting to Senate and Policy Review**

53. The Provost shall report annually to Senate and the Board of Governors on the implementation and application of this Policy. This report will include information about the number of Disclosures and Reports received during the reporting period, and about measures taken to pursue the prevention and education objectives of this Policy. Subject to the University's obligations to respect the privacy rights of Members of the University Community, annual reports to Senate and the Board will include aggregated information on the number of Reports of Sexual Violence submitted during the reference period by or against students, faculty and staff, the number of Reports where the evidence was sufficient to find that Sexual Violence had occurred, the number of cases where the disciplinary officer followed or did not follow a recommendation of the Special Investigator in regard to imposing discipline, and the types of disciplinary and administrative measures imposed.
54. A triennial review of this Policy shall be conducted by a working group chaired by the Provost (or delegate) and comprised of one representative each of: OSVRSE, [OMR](#), [Office of the Dean of Students](#), Human Resources, University Residences/Student Housing, SSMU, PGSS, MACES, MCSS, SACOMSS, [University the Senior Equity & Inclusion Advisor](#), [JBSCEEDI Committee](#), AGSEM, AMURE, AMUSE, MAUT, MUNACA, MUNASA, MCLIU, SEU. This review shall include an assessment of the effectiveness of the educational measures established in this Policy, as well as recommendations aimed at their enhancement.

***Legislative History:***

*Approved:*

Senate	November 23, 2016	Minute IIB4
Board of Governors	December 1, 2016	Minute 13

*Revised:*

Senate	March 27, 2019	Minute 4.1
Board of Governors	March 28, 2019	Minute 6.1

## Appendix 1: Relevant Legislation and Government Documents

- Quebec Charter of Human Rights and Freedoms
- Civil Code of Québec
- Act to Prevent and Fight Sexual Violence in Higher Education Institutions
- Act Respecting Labour Standards
- Act Respecting Access to Documents Held by Public Bodies and the Protection of Personal Information
- ~~Guide d'accompagnement destiné aux établissements d'enseignement supérieur Élaboration de la politique prescrite par la Loi visant à prévenir et à combattre les violences à caractère sexuel dans les établissements d'enseignement supérieur, which states (at 22):~~

~~À la suite du processus de traitement de la plainte administrative, c'est-à-dire lorsqu'une décision a été rendue et que des sanctions ont été imposées, le cas échéant, la personne plaignante devrait être informée de la fin du processus. L'imposition de sanctions et leur nature, le cas échéant, ne peuvent cependant être révélées, car ces informations constituent des renseignements personnels.~~